

**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
THIRTY-FIRST LEGISLATURE, 2022**

ON THE FOLLOWING MEASURE:

H.B. NO. 2024, RELATING TO MAUNA KEA.

BEFORE THE:

HOUSE COMMITTEES ON WATER AND LAND AND ON
JUDICIARY AND HAWAIIAN AFFAIRS AND ON FINANCE

DATE: Saturday, February 19, 2022 **TIME:** 9:00 a.m.

LOCATION: State Capitol, Room 430, Via Videoconference

TESTIFIER(S): Holly T. Shikada, Attorney General,
Julie H. China, Deputy Attorney General, or
Linda L. Chow, Deputy Attorney General

Chairs Tarnas, Nakashima, and Luke and Members of the Committees:

The Department of the Attorney General offers the following comments.

The bill will establish the Mauna Kea stewardship authority (authority), attached to the office of the chairperson of the Board of Land and Natural Resources (BLNR) for administrative purposes, to own and manage all state-managed lands on Mauna Kea above the 6,500-foot elevation line. The bill will require the development of a management plan and limit astronomy development and commercial use of Mauna Kea. The bill will require an application and fee for all recreational users. The bill will establish the Mauna Kea management special fund and repeal the Mauna Kea lands management special fund.

We have several suggested recommendations to clarify provisions in the bill. The bill states that the "authority shall be attached to the office of the chairperson of the board of land and natural resources[.]" Page 3, line 21, to page 4, line 2. This provision may violate article V, section 6, of the Hawai'i State Constitution, which states that "[a]ll executive and administrative offices, departments and instrumentalities of the state government and their respective powers and duties shall be allocated by law among and within the not more than twenty principal departments" To cure this defect, we recommend that this portion of the sentence be amended to state that the "authority

shall be placed within the department of land and natural resources for administrative purposes."

The bill provides that one of the members of the authority shall be "[t]he chair of land and natural resources, or the chairperson's designee." Page 4, lines 7-8. For purposes of clarity and consistency, and to address possible confusion over which chairperson is intended, e.g., the chairperson of the BLNR or the chairperson of the authority, we suggest this sentence be replaced with "The chairperson of the board of land and natural resources, or this chairperson's designee."

The bill states that the "authority shall hold title to the lands situated on Mauna Kea as identified in section -7[.]" page 9, lines 16-18, yet it does not provide a mechanism for the transfer of the land title from the Department of Land and Natural Resources to the authority. We recommend the following proposed wording to be inserted into section -8, at page 16, line 11, as a means to accomplish the transfer of lands to the authority: "The department of land and natural resources shall transfer to the authority the title to the lands described in section -7(a), together with all existing encumbrances."

Lastly, the bill allows the authority to "[r]enegotiate lease terms and fees" in order to "[c]onsider various supplemental revenue sources[.]" The rental amount being paid by the University of Hawaii under the existing lease may not be renegotiable, as there are no lease terms that allow for renegotiation of the rental amount at this time. We propose amending section -4(b)(9), page 13, lines 19-20, to state: "including but not limited to, to the extent allowed by law:"

Thank you for the opportunity to provide comments.

DAVID Y. IGE
GOVERNOR



CRAIG K. HIRAI
DIRECTOR

GLORIA CHANG
DEPUTY DIRECTOR

EMPLOYEES' RETIREMENT SYSTEM
HAWAII EMPLOYER-UNION HEALTH BENEFITS TRUST FUND
OFFICE OF THE PUBLIC DEFENDER

STATE OF HAWAII
DEPARTMENT OF BUDGET AND FINANCE
P.O. BOX 150
HONOLULU, HAWAII 96810-0150

ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEES ON WATER & LAND, JUDICIARY & HAWAIIAN
AFFAIRS, AND FINANCE
ON
HOUSE BILL NO. 2024

February 19, 2022
9:00 a.m.
Room 430 and Videoconference

RELATING TO MAUNA KEA

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill (H.B.) No. 2024: establishes the Mauna Kea Stewardship Authority as the sole authority for the management of State-managed lands on Mauna Kea; creates the Mauna Kea Management Special Fund that would generate revenues through legislative appropriations, moneys from supplemental sources, grants, donations, and earned interest; authorizes the Director of Finance to issue an unspecified amount of general obligation bonds; repeals the Mauna Kea Lands Management Special Fund; and appropriates an unspecified amount of general funds for FY 23 for startup costs for the Mauna Kea Stewardship Authority.

As a matter of general policy, B&F does not support the creation of any special fund which does not meet the requirements of Section 37-52.3, HRS. Special funds should: 1) serve a need as demonstrated by the purpose, scope of work, and an explanation why the program cannot be implemented successfully under the general fund appropriation process; 2) reflect a clear nexus between the benefits sought and

charges made upon the users or beneficiaries or a clear link between the program and the sources of revenue; 3) provide an appropriate means of financing for the program or activity; and 4) demonstrate the capacity to be financially self-sustaining. Regarding H.B. No. 2024, it is difficult to determine whether the proposed special fund would be self-sustaining.

In addition, B&F notes that, with respect to the general fund appropriation in this bill, the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

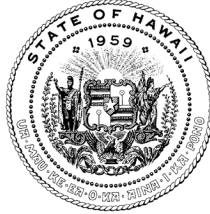
Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.

DAVID Y. IGE
GOVERNOR OF
HAWAII



**STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

**Testimony of
SUZANNE D. CASE
Chairperson**

**Before the House Committees on
WATER & LAND
and
JUDICIARY & HAWAIIAN AFFAIRS
and
FINANCE**

**Saturday, February 19, 2022
9:00 a.m.**

State Capitol, Conference Room 430 & Videoconference

**In consideration of
HOUSE BILL 2024
RELATING TO MAUNA KEA**

House Bill 2024 proposes to: 1) Establish the Mauna Kea Stewardship Authority (Authority) as the sole authority for management of state-managed lands on Mauna Kea; 2) Require the Authority to develop a single plan that dictates the management of land uses; human activities, uses, and access; stewardship, education; research, disposition; and overall operations; 3) Require the authority to develop a framework to limit astronomy development on Mauna Kea. It prohibits certain commercial use and activities on Mauna Kea; 4) Require an application and fee for all recreational users of Mauna Kea; 5) Establish the Mauna Kea Management Special Fund, and 6) Repeal Mauna Kea Lands Management Special Fund. **The Department of Land and Natural Resources (Department) finds that there is already a strong management framework in place for the management of lands on Mauna Kea, and respectfully opposes this measure.**

The Department would like to offer the House Committees the following information for background and context:

Jurisdiction

The proposed Mauna Kea Authority (Authority) would have jurisdiction over Mauna Kea lands that are state-managed lands on Mauna Kea above the 6500-elevation line, inclusive of Pu'u Huluhulu, to the summit of Mauna Kea.

SUZANNE D. CASE
CHAIRPERSON
BOARD OF LAND AND NATURAL RESOURCES
COMMISSION ON WATER RESOURCE MANAGEMENT

ROBERT K. MASUDA
FIRST DEPUTY

M. KALEO MANUEL
DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES
BOATING AND OCEAN RECREATION
BUREAU OF CONVEYANCES
COMMISSION ON WATER RESOURCE MANAGEMENT
CONSERVATION AND COASTAL LANDS
CONSERVATION AND RESOURCES ENFORCEMENT
ENGINEERING
FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

The Department managed areas in the summit region and upper slopes of Maunakea are the Mauna Kea Natural Area Reserve and the Mauna Kea Forest Reserve. The University of Hawai‘i (UH) managed areas are the Maunakea Science Reserve, the Halepōhaku Midlevel Facilities, and the Maunakea Access Road between Halepōhaku and the summit.

Mauna Kea Forest Reserve: The Forest Reserve encompasses 52,500 acres and is under the jurisdiction of the Department’s Division of Forestry and Wildlife (DOFAW). The māmane forest here is critical habitat for the federally listed palila.

Mauna Kea Ice Age Natural Area Reserve: The 2,033-acre reserve was created in 1981. It is managed by DOFAW’s Natural Area Reserve System. Among its unique geological and cultural features are the Keanakakoi adze quarry, Lake Waiau, and Pu‘u Pōhaku. The Mauna Kea NAR is bounded by the Science Reserve and the Mauna Kea Forest Reserve.

The Maunakea Science Reserve is an 11,288-acre State-owned site leased by the University of Hawai‘i under General Lease S-4191, with day-to-day management delegated by the Board of Regents to the Center for Maunakea Stewardship (CMS).

The Maunakea Science Reserve contains the 550-acre Astronomy Precinct, most land within a 2.5-mile radius of the site of the UH 2.2-m telescope – in effect, all land above 3700 meters (12,139 feet) in elevation except for a pie-shaped wedge set aside as the Mauna Kea Ice Age Natural Reserve.

The Maunakea Science Reserve contains most of the natural and cultural resources on Mauna Kea; most of it contains no astronomy, road, or building improvements.

Halepōhaku is a 19.3-acre state-owned parcel below the Summit region at 9,300 feet elevation leased to UH through 2041 under General Lease No. S-5529, which describes the character of use as “premises leased to be used solely for permanent mid-level facilities, a construction camp, an information station as well as existing facilities purposes.” It is the site of the Onizuka Center for International Astronomy (Halepōhaku Mid-Level Facilities).

The portions of the **Summit Access Road** that extend from Halepōhaku to the boundary of the Science Reserve is also under UH management. This includes a 400-yard corridor on either side of the road, excluding those areas within the adjacent Mauna Kea Ice Age Natural Area Reserve.

The lower slopes of Maunakea also contain lands managed by or under the jurisdiction of the Department of Hawaiian Home Lands, the United States Army (Pōhakuloa Training Area) at 6,200 feet in elevation, and the United States Fish and Wildlife Service (Hakalau Forest National Wildlife Refuge) at 6,600 feet highest elevation. The County of Hawai‘i maintains the Access Road below Halepōhaku to the Saddle Road (DKI Highway) (6,765 feet in elevation at Humu‘ula Saddle).

The Department notes that the lease for the Maunakea Science Reserve expires on December 31, 2033. Discussions have begun for a new land authorization; the current preferred alternative is to

issue a new land authorization for a reduced area including the astronomy precinct access road and Halepōhaku, effectively withdrawing 10,000 acres from the science reserve and returning them to Department management.

The Ige Administration is in active discussions about withdrawing the unimproved 10,000 acres from the UH Science Reserve lease and returning it to the Department.

Management

The Bill states that the Authority shall have a transition period of three years after the effective date of this Act to assume management of its designated Mauna Kea lands, and the authority shall develop a single plan that dictates the management of land uses, human activities, uses, and access, including permitted uses for frequent and seasonal users; stewardship; education; research; disposition; and overall operation.

Department Management

The Department's multi-faceted management responsibilities are shared by six primary divisions and offices in collaboration with UH:

DOFAW manages the Mauna Kea Forest Reserve, as well as outdoor recreation programs, trail and access systems, and the hunting program.

The Land Division is charged with the management and enforcement of leases, permits, executive orders, and other encumbrances.

The Office of Conservation and Coastal Lands (OCCL) is responsible for the permitting and regulating of land uses in the Conservation District. Conservation District Use Applications are processed by OCCL, although the Board of Land and Natural Resources has the final authority to modify, grant, or deny permits. OCCL is also responsible for investigating potential land use violations and permit violations.

The State Historic Preservation Division (SHPD) is charged with preserving and protecting historically and culturally significant properties as outlined in the National Historic Preservation Act, the Statewide Historic Preservation Plan, and Chapter 6E, Hawai'i Revised Statutes. SHPD-managed programs include: Statewide Inventory of Historic Properties, Burial Sites Program, Certified Local Government Program, National Main Street Program, Historic Preserves Program, Information and Education Program, Interagency Archaeological Services, and maintenance of the Hawai'i and National Register of Historic Places. SHPD also reviews proposed development projects to ensure minimal effects of change on historic and cultural assets.

The Hawai'i Island Burial Council (HBC) falls under the jurisdiction of SHPD, and is responsible for the management of all human remains over fifty years old. Burial protection plans and burial treatment plans on Maunakea are required to be done in consultation with the HBC.

The Division of Conservation and Resource Enforcement (DCOARE) is responsible for enforcing all laws and rules that apply to lands that are managed by DLNR. Pursuant to Act 226 Session Laws of Hawai‘i 1981, DCOARE’s enforcement officers have full police powers to execute all state laws and rules within all state lands.

UH Management

In August 2020 the UH Board of Regents approved an internal reorganization of the management structure for UH-managed lands. UH management structure encompasses:

The Center for Maunakea Stewardship (CMS), which is the lead organization for the management of UH-managed lands on Maunakea. It is responsible for the strategic implementation of stewardship programs, planning, permitting, compliance oversight, outreach, and research and academic coordination, as well as for fiscal planning and management. CMS will report directly to the Chancellor.

Stewardship Programs oversees the operations of the stewardship and support service operations, including Maunakea Observatories Support Services (MKSS), cultural and natural resource programs, the Ranger program, and permitting and compliance.

Cultural, community, and stakeholder advisory groups are integrated into strategic planning and policy discussion. These include:

The **Maunakea Management Board**, a body comprised of seven members of the community who are nominated by the UH Hilo Chancellor and approved by the UH Board of Regents.

The **Kahu Kū Mauna Council** advises the Board and Chancellor on cultural matters and issues.

The **Maunakea Observatories Partners Group** was established to provide input into decisions made by the University.

The University’s **Institute for Astronomy (IFA)** takes the lead in coordinating scientific cooperation and partnerships. The **‘Imiloa Astronomy Center** now takes the lead in cultural-based education.

The Board of Land and Natural Resources approved a Comprehensive Management Plan (CMP) for UH-managed lands on Maunakea on April 9, 2009. The CMP included management actions of previous management documents, including the 1995 Management Plan for UH Management Areas and the 2000 Mauna Kea Master Plan.

The CMP provides a framework and management guidelines ranging from the preservation of cultural and natural resource to the management of the built environment, construction activities, and access to outreach and education.

The Maunakea CMP contains 106 management actions and associated reporting requirements. Four Resource subplans were approved by BLNR on March 25, 2010: the *Natural Resources*

Management Plan; Cultural Resource Management Plan; Public Access Plan; and the Decommissioning Plan.

Audit Issues Addressed

The Department notes that a 1998 audit by the State Office of the Auditor found significant deficiencies in the management of Mauna Kea by both the Department and UH. Specifically, the audit found that the University appeared to place a higher value on developing observatories than on protecting Mauna Kea's natural and cultural resources, and that the Department was not engaged in effective monitoring and enforcement of permitting requirements.

A 2005 follow-up audit found that UH's Master Plan and new management structure addressed many of the 1998 concerns but found that the lack of administrative rule-making authority was limiting UH's ability to manage resources. The follow-up also noted that the Department had tightened permit approval conditions, but that the terms of the leases and subleases remained dated. The follow-up also recommended that the Department better monitor the University for permit compliance, and that the Department's divisions better coordinate its efforts to protect Mauna Kea's natural resources.

A second follow-up audit, in 2014, found that UH's CMP and associated subplans addressed many of the previous concerns. The auditor also recognized that contractual terms had prevented the Department and UH from updating existing lease and sublease terms, and that future leases would incorporate the auditor's earlier recommendations. The lack of administrative rules remained a significant concern.

A final follow-up audit, in 2017, noted that the adoption of administrative rules had not yet been implemented. The UH Board of Regents adopted rules on November 6, 2019. Governor David Ige approved and signed the rules in January 2020, and they went into effect on January 23, 2020.

2020 Independent Evaluation of Management

In May 2020 the Department contracted with Ku'iwalu Consulting to conduct an independent evaluation of UH's compliance with the CMP. The evaluation was intended to provide the Department and the Board of Land and Natural Resources with relevant information, including community input, into whether Mauna Kea was being effectively managed. Ku'iwalu Consulting submitted its final report on December 2020. The following is taken from the Executive Summary of the report:

The Report consists of three assessments. First, OMKM¹'s self-assessment of their implementation of the CMP. Second, the public's assessment, based upon the comments we received. And third, the independent evaluation utilizing the logic model approach that took into consideration UH's self-assessment, the public input, the timeliness of

¹ The Center for Maunakea Stewardship assumed the duties and responsibilities of OMKM, the Office of Maunakea Management, in 2020.

OMKM's implementation of Management Actions (MA), and whether UH's implementation of the 103 MAs achieved the desired outcomes as set forth in the CMP.

With respect to UH's self-assessment, the *OMKM 2020 Annual Report to the Board of Land and Natural Resources, Status of the Implementation of the Mauna Kea Comprehensive Management Plan* (OMKM 2020 Annual Report to Board of Land and Natural Resources) essentially concludes that "most management actions have either been implemented or are in progress." For the most part, the UH Management Entities believe they have made considerable progress in effectively implementing the CMP MAs and are, in fact, better managing and protecting the cultural and natural resources.

However, there is a difference of opinion between UH-Hilo Management Entities (UH-Hilo Entities) and the larger UH System with respect to the public's perception of how effective OMKM is in managing the state conservation lands at Mauna Kea. Accordingly, "in response to past criticisms" the UH Board of Regents (BOR) adopted Resolution 19-03 to take timely action to comply with the management plans, including cultural education and community outreach, decommissioning, and reorganization and restructuring the UH governance structure in their management of Mauna Kea.

The public's assessment of how effectively UH has implemented the CMP has primarily varied depending on whether they are in favor or opposition of telescope development on Mauna Kea. Those who support existing and future telescope development on Mauna Kea believe that OMKM has adequately implemented the CMP MAs to preserve and protect the cultural and natural resources on Mauna Kea. For those who do not support continued telescope development on Mauna Kea beyond 2033, the expiration of the existing state lease, they believe that UH continues to mismanage Mauna Kea as concluded in the 1998 State Auditor's Report. In particular, those in opposition believe that UH continues to advocate telescope development over the protection and preservation of the resources.

Finally, the independent evaluation found that OMKM has made progress in implementing most of the CMP MAs, and in many regards OMKM is effectively managing the activities and uses on Mauna Kea to better protect the natural and cultural resources. We heard many comments that the cultural and natural resources on the state conservation lands on Mauna Kea are some of the best managed and protected lands in the entire State. The area is clear of trash, the invasive species are being removed not only by OMKM but volunteer groups, and the OMKM Rangers to ensure public safety on Mauna Kea.

Astronomy development

The Bill proposes that the Authority *shall develop a framework to limit astronomy development on Mauna Kea through development limitations that may include limitations on the number of astronomy facilities or an astronomy facility footprint limitation; provided that in establishing a framework to control astronomy development on Mauna*

Kea, the authority shall establish a plan to return the mauna above nine thousand two hundred feet elevation to its natural state.

There are currently eleven active observatories in the Maunakea Science Reserve: nine optical/infrared observatories and three radio observatories on the upper summit, Kūkahauʻula, and one radio observatory in the lower summit region. A permit has been issued for one optical / infrared observatory, the Thirty Meter Telescope, for the northern plateau in the Maunakea Science Reserve.

Two telescopes are in the process of being decommissioned. The Board of Land and Natural Resources approved the decommissioning plan for the Caltech Submillimeter Observatory (CSO) in January 2022. Work is scheduled to begin in the summer of 2022 and completed in the fall. Monitoring of the restoration site will continue for three years. The University of Hawaiʻi at Hilo's 0.9-m telescope, Hōkū Keʻa, is also non-operational. The University has filed a Notice of Intent to Decommission this telescope.

The University's Board of Regents approved a new Master Plan, E Ō I Nā Leo, in January 2022. It contains a commitment to a maximum of nine summit astronomy sites by December 31, 2033. It also contains a commitment that "Astronomy Site 13" will be the last new site developed in the Science Reserve. Decommissioning of observatories will include restoring the site to its natural state.

Conclusion

The Department appreciates all the time and effort of the Mauna Kea Working Group in 2021 focused on building bridges through sharing of diverse perspectives.

The Department notes that the resource management plans, administrative rules, and administrative framework outlined above have been developed and refined in the twenty-four years since the 1998 audit. We find that the State-managed lands on Mauna Kea are among the most comprehensively and well-managed in Hawaiʻi.

We are concerned that it is not realistic to replace the existing framework with one single plan, under one single Authority, in a manner that will improve management on Mauna Kea. We are concerned that the management of Mauna Kea's cultural and natural resources and the success of Mauna Kea's locally and globally significant astronomy will suffer as a result. While no doubt well-intentioned, we are concerned that House Bill 2024 may further divide rather than unite our community.

Thank you for the opportunity to comment on this measure.



HB2024

RELATING TO MAUNA KEA

House Committees on
Water & Land, Judiciary & Hawaiian Affairs and Finance

February 19, 2022

9:00 a.m.

Videoconference

The Office of Hawaiian Affairs (OHA) offers the following **COMMENTS** on HB2024, intended to establish the Mauna Kea stewardship authority ("MKSA"), and, produced from the work and report of the Mauna Kea Working Group ("MKWG"), created by House Resolution No. 33, H.D. 1, (Regular Session of 2021), where OHA was named as one of fifteen members.

OHA Board of Trustees Authority. Pursuant to the Hawai'i State Constitution ("Constitution") and the Hawaii Revised Statutes ("HRS"), the power and authority of the OHA reside with the nine elected Trustees, collectively as the Board of Trustees, and not the Administrator, functioning as the Ka Pouhana, Chief Executive Officer (CEO). Therefore, the naming of the OHA CEO as a member of the nine (9) member decision making board of the governing entity is inconsistent with the Consitution and HRS articulation of the fiduciary responsibilities of the Trustees that has not been delegated to the CEO in this matter. Therefore, the listing of the "chief executive officer of the office of Hawaiian affairs"¹, as of one of the nine voting members, should be replaced by the "chair of the Board of Trustees, or the chairperson's designee".

Administrative Attachment to BLNR. HB2024 states the Mauna Kea stewardship authority² shall be attached to the office of the chairperson of the board of land and natural resources ("BLNR") for administrative purposes. OHA raises several concerns with this MKSA attachment to BLNR, even if administrative. Indeed, the current governance and management of Mauna Kea by the University of Hawaii is a result of the permissions provided by the BLNR; therefore, at the governance "root" is the BLNR. The historical actions and inactions of the department of land and natural resources ("DLNR"), as governed by the BLNR, on a breadth of matters related to governance and management of lands, water, cultural and natural resources, including but not limited to iwi kupuna, island burial councils, length of leases, revocable permits, interim instream flow standards, etc. are areas of top of mind concerns.

OHA as Collaborative Steward. During the MKWG convenings, particularly when discussions occurred regarding various governance models, OHA suggested a governance model in which OHA could function as a collaborative steward with state entities that have kuleana for the management of lands, water, cultural and natural resources, academic and

¹ Page 4, Line 9 and Page 8, Line

² Bottom of Page 3 to top of Page 4



RELATING TO MAUNA KEA

House Committees on
Water & Land, Judiciary & Hawaiian Affairs and Finance

scientific pursuits, and most importantly, our Lāhui. Although, ultimately, the suggested governance model did not advance, and was not included in the final report recommendations, OHA maintains that a collaborative stewardship model should be considered more seriously given the many public and private interests and the powers and responsibilities that the bill envisions for the MKSA.

Authorities include, but are not limited to: holding title to the lands; stabling access, stewardship and management policies--protection of natural and cultural resources, all recreational activities and commercial uses--; protect Native Hawaiian rights; enforcement partners; engage in community dialogue, outreach, engagement and consultation processes; consider various supplemental revenue sources (e.g., leases—terms and fees, observatory, common area maintenance, toll fees, general funds, ecosystem service fees); and development of an astronomy framework.

As further stated in the measure, jurisdiction of the MKSA, “*..state-managed lands about the six thousand five hundred foot elevation line, inclusive of Pu’u Huluhulu to the summit of Mauna Kea...should be held in trust as part of the public land trust; provided that the State shall transfer management and control of the lands to a sovereign Native Hawaiian entity upon its recognition by the United States and the State of Hawai’i.*” The jurisdictional description and transfer intents align with OHA being a collaborative steward with more kuleana, even a kaumaha, with our Lāhui.

Established by our state’s Constitution,³ the Office of Hawaiian Affairs (“OHA”) is a semi-autonomous agency of the State of Hawai’i mandated to better the conditions of Native Hawaiians. Guided by a board of nine publicly elected trustees (“Trustees”), all of whom are currently Native Hawaiian, OHA fulfills its mandate through advocacy, research, community engagement, land management, and the funding of community programs. Hawai’i state law recognizes OHA as the principal public agency in the state responsible for the performance, development, and coordination of programs and activities relating to Native Hawaiians.⁴ Furthermore, state law directs OHA to advocate on behalf of Native Hawaiians;⁵ to advise and inform federal officials about Native Hawaiian programs; and to coordinate activities relating to Native Hawaiians.⁶

Mahalo for the opportunity to comment on this measure.

³ HAW. CONST., art. XII, §5 (1978).

⁴ Haw. Rev. Stat. § 10-3(3).

⁵ Haw. Rev. Stat. § 10-3(4).

⁶ Haw. Rev. Stat. § 10-6(a)(4).



MAUNA KEA MOKU NUI `AELIKE/CONSENSUS BUILDING `OHANA

We file the following collective testimony IN OPPOSITION to the following Bills:

1. HB2024 RELATING TO MAUNA KEA: Mauna Kea Stewardship Authority; Established; Appropriation (\$)
2. SB2502 RELATING TO HAWAII COMMUNITY DEVELOPMENT AUTHORITY: Public Auction, Increases terms for public auction, sales, or leases from sixty-five years to ninety-nine years.
3. HB1750/SB3384 RELATING TO AFFORDABLE HOUSING: Makes the new construction of affordable housing eligible for exemption from environmental impact statement and environmental assessment requirements.
4. HB2165 RELATING TO DISPOSITION OF PUBLIC LANDS BY NEGOTIATION: Includes leases for commercial, industrial, and hotel or resort purposes eligible for disposition by negotiation pursuant to section 171-59(b), Hawaii Revised Statutes.

We file our opposition to the above-mentioned bills collectively because they are related, fail to protect and/or seek to alienate our lands out of the body corpus of the Public Lands Trust (Crown and Government lands) provided under the Admissions Act, for which Kanaka Maoli (Native Hawaiians) are the right holders and beneficiaries. (See

[Http://www.capitol.hawaii.gov/hrscurrent/vol01_ch0001-0042f/04-adm/adm-.htm](http://www.capitol.hawaii.gov/hrscurrent/vol01_ch0001-0042f/04-adm/adm-.htm))

These bills are grossly defective thus constituting a liability upon all agents of the State for a Breach of Trust. Lawmakers/Legislators are Agents of the so-called "State of Hawai'i" and as such are also Trustees of the Public Trust. All Lawmakers/Legislators are required to exercise their Fiduciary Duties and Responsibilities in order to administer and manage the Constitutional Trust for the benefit of its Beneficiaries who are Native Hawaiians and the General Public. The Hawai'i Supreme Court opines that the Public Trust is like regular trusts - the Trustee must protect the resources of the Trust for the benefit and betterment of its Beneficiaries (See *Ching v. Case* - <https://law.justia.com/cases/hawaii/supreme-court/2019/scap-18-0000432.html>).

Affirming that the lands must be managed for the betterment of the Beneficiaries and the Beneficiaries must receive benefits.

Furthermore, in addition to the protections provided for the Native Hawaiian beneficiaries under relevant state and federal laws, as Lawmakers/Legislators you are also bound by international law relating to the protections of Indigenous Peoples (such as Native Hawaiians) and their traditional lands and territories. The United Nations Declaration on Rights of Indigenous Peoples (UNDRIP) Article 26, specifically provides protection for the traditional lands of all Indigenous Peoples. Therefore, we as Kanaka Maoli (Native Hawaiians) and as right holders and beneficiaries do not give our consent for the alienation and or misuse of our lands. (See https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf)



MAUNA KEA MOKU NUI 'AELIKE/CONSENSUS BUILDING 'OHANA

We publicly object to and are opposed to the above listed bills. We have provided you with the legal reasons and relevant laws to inform your decision and call upon this Legislature to hold these bills and not to pursue them further into the future. Because to do otherwise is to act in excess of your authority and ignores the laws put in place to protect the People of Hawai'i and their Trust assets.

On Behalf of the Mauna Kea Moku Nui 'Aelike/Consensus Building 'Ohana

/s/ Clarence Kauakahi Ching

Speaker

kahiwal@cs.com

HB-2024

Submitted on: 2/15/2022 3:05:35 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Nancy Redfeather	Ka Ohana O Na Pua	Oppose	No

Comments:

The proposed conveyance of the Mauna Kea trust lands to the proposed entity of stewards "in trust" does not seem to be accompanied by fiduciary trust responsibilities and duties. Therefore this new "agreement" should not stand. Mahalo



Hawai'i Island Chamber of Commerce

1321 Kino'ole Street
Hilo, Hawai'i 96720
Phone: (808) 935-7178
Fax: (808) 961-4435
E-mail: admin@hicc.biz
www.hicc.biz

**Hawaii State House of Representatives
Committee on Water and Land
Committee on Judiciary and Hawaiian Affairs
Committee on Finance**

**Testimony in Opposition to HB2024 Relating to Maunakea
Mauna Kea Stewardship Authority**

The Hawai'i Island Chamber of Commerce, formed in 1898 by the business community of the Island of Hawai'i, has continued to be a dedicated supporter of scientific and, in particular, the astronomical enterprises on Maunakea.

Our chamber continues to stand with Hawai'i's business community in support of astronomy which brings significant economic benefits to our Island and State, including employing more than 1,000 people on Hawai'i Island. The astronomical work being done by the Maunakea Observatories contributes to humankind discoveries helping to shape our view of the world.

Initially through the Office of Maunakea Management and now, through the Center for Maunakea Stewardship, University of Hawai'i has dedicated its management efforts to the protection of the natural and cultural resources of over 11,000 acres while ensuring the UH managed lands on the mountain allow for world-class astronomy. A point we should all be proud of. Its stewardship has garnered the State Historic Preservation Award, numerous awards for protection of cultural and natural resources and accolades for its stewardship from the Department of Land & Natural Resources.

HB2024 will allow a sole authority to expand its jurisdiction to include the whole mountain from the 6,500 ft. elevation at the Saddle Road Junction to the summit. This will severely limit public use to lands which our residents and visitors from around the world should have access to.

The University of Hawai'i and the Center for Maunakea Stewardship is committed to the collaborative stewardship of Maunakea's cultural, natural, educational and scientific resources in a manner that integrates traditional Indigenous knowledge and modern science. Good management of Maunakea is already in place.

HB-2024

Submitted on: 2/17/2022 5:49:34 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Herbert Kai	Hilo Hawaiian Civic Club	Support	No

Comments:

Aloha, everyone!

Born in 1943, I was raised by the 'Hawaiianness' principles of my grandparents...both sides...of the First Nation people of Hawaii. Just for 'standing' before this body, I am a descendant of the indigenous people of pre 1778 Mokuokeawe, an awardee of DHHL Panaewa agriculture lot (transferred to my niece per DHHL procedures, since I'm 'elder'), a Kamehameha Schools graduate, a member of Hilo Hawaiian Civic Club, and reside both off and on island...cost of living.

That said, I share today how fortunate I was to be raised by my grandparents in the values, culture, and this-is-how-our-ancestors did it ways of pre 1900 territorial days under Supreme Court Justice Thurston!. I even attended the pre civic club meetings in Keaukaha 1956-57...before that devastating Tsumnami of 1957, and '60, and ad infinitum. Back then, Mr. Kimura had agreed with a Japan astronomer to put up an observation post on OUR revered Mauna Wakea (before I could vote; I had no say: too young). Today I am 78; the right & ripe age to walk with a cane (now, too old to have a say, IMO).

Albeit, I support HB2024 and the position of Hilo Hawaiian Civic Club, i.e. Mauna A Wākea and kānāwai. It's tough being indigenous and the third 'bench' of the Legislature as Hawaiian Civic Club, voting on bills, outside this closed door, and not on the "Floor" or in "The House".

Aloha, Herb Kai

HB-2024

Submitted on: 2/17/2022 8:30:30 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Rob LeMeur	Hawaii Forest and Trail	Oppose	No

Comments:

Aloha to Whom it May Concern,

I am in opposition to HB2024 as an employee of Hawaii Forest and Trail.

Hawaii Forest and Trail plays a positive role on the mountain -we provide safely guided tours into rare, fragile habitats, under very tightly controlled conditions all while helping to reduce traffic and incidents on the mountain. Also, we educate visitors about Hawaii's native culture and fragile ecosystems.

Having commercial operators restricted from being able to go to Maunakea summit directly impacts myself and my livelihood. As an employee of Hawaii Forest & Trail I depend on my job to support my family while trying to survive in this challenging and increasingly costly state to live in.

Mahalo for your consideration!

PROTECT KAHO‘OLAWA ‘OHANA
P.O. Box 39
Kaunakakai, Hawai'i 96748



Testimony Presented Before the Senate Committees on
Water & Land,
Judiciary & Hawaiian Affairs, and
Finance
Saturday, February 19, 2022, 9:00 am
State Capitol, Conference Room 430
By
Joshua Kaakua for the
Protect Kaho'olawe 'Ohana

IN SUPPORT of HB 2024

Chairs Luke, Tarnas and Nakashima and Vice Chairs Yamashita, Branco and Matayoshi and members of the Senate Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance. Aloha. My name is Joshua Kaakua and I am testifying on behalf of the Protect Kaho'olawe 'Ohana ('Ohana) **in support of HB 2024**.

The 'Ohana recognizes the cultural, genealogical, and sacred significance of Mauna a Wākea and the efforts of the State to support appropriate and pono stewardship and management. HB2024 proposes a stewardship authority administratively attached to the Board of Land and Natural Resources with a diverse composition of key stakeholders including representation from Native Hawaiian community. The following ammendments to HB2024 are recommended:

- Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report - Ho'okikī Kānāwai, Kua'ā Kānāwai, Kai'okia Kānāwai, Kīho'īho'ī Kānāwai;
- Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group's Report; and
- Add language that would require the University of Hawai'i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

When faced with the opportunity to restore and properly steward the sacred lands and waters of Kaho'olawe, the State formalized the necessary role of Native Hawaiian community groups in co-management (on the Kaho'olawe Island Reserve Commission). HB2024 presents the right elements of this model, and, with suggested ammendments, has the support of the Protect Kaho'olawe 'Ohana.
Aloha 'Āina

TESTIMONY IN SUPPORT OF
HB 2024, RELATING TO MAUNA KEA
Saturday, February 19, 2022
from
Dr. Noe Noe Wong-Wilson

Honorable Chairpersons Rep. David Tarnas, Chair, Water & Land, Rep. Mark Nakashima, Judiciary & Hawaiian Affairs, Rep. Sylvia Luke, Finance

Aloha kākou,

Please accept this testimony in support of HB 2024, Relating to Mauna Kea. I am from Hilo, Hawai'i, retired from Hawai'i Community College as an Assistant Professor of Hawaiian Studies and Coordinator of the Hālaulani Native Hawaiian Student Success program. I am also President of the Hawaiian Civic Club of Hilo, Director of Moku O Keawe Council, a founding co-author of 'Āina Aloha Economic Futures and Executive Director of Lālākea Foundation. I served as a member of the Mauna Kea Working Group.

The Mauna Kea Working Group was comprised of 15 members including 7 Native Hawaiian members who were nominated by Native Hawaiian community organizations. The 15 members represented a wide variety of interests related to the mauna including 4 members of the House of Representatives, a member representing the Astronomy Observatories, a member from UH BOR, a representative from OHA and one from the Department of Land and Natural Resources. After a series of long discussions, we agreed to conduct ourselves using Hawaiian cultural principles which guided us with respect and aloha for each other through challenging and sometimes sensitive and emotional discourse. After a little more than 5 months, we were able to submit our report to the legislature as directed by HR33, HD1, 2021 Session which resulted in HB 2024.

This bill establishes a new agency to take care of Mauna Kea, also known respectfully as **Mauna A Wākea** which reflects its creation and genealogy. **The report states that the mauna should be formally referred to as Mauna A Wākea. These corrections should be made throughout the bill.**

The report intends to establish Hawaiian natural laws called kânāwai as the foundational principles which guide the care of the mauna.

These kânāwai which were in the report and should be included in the bill in Part I are:

Ho'okikī Kānāwai - the edict of continuum; the cycles that balance and regulate our environment, inclusive of the hydrologic cycle, carbon cycle, nitrogen cycle, and rock cycle. It is imperative that these cycles are maintained for any disturbance throws the environment out of balance and wreaks havoc on livelihoods and communities.

Kua'ā Kānāwai - the edict of emergency; the cycles of our environment, replete with natural phenomena and elemental activity, provide warnings that forecast an impending disaster, such as earthquakes that may trigger an eruption or tsunami, the receding ocean that exposes the sea floor, distant thunder and rising water levels in rivers portending flash flooding, high surf that results in strong currents and dangerous shorebreaks, freezing temperatures and blizzard conditions. Elemental activity, and their potential hazards, should dictate our actions and our responses. Ignoring these hazards may lead to injury and death.

Kai'okia Kānāwai - the edict of boundaries; natural boundaries and pathways are delineated by lava flows, rivers, valleys, ocean, shoreline, land, sky and forest, kū and hina or vertical and horizontal divisions of air, ocean and earth. Traditionally, land deemed safe for residential and commercial activity were zoned as wao kanaka, where man could live and work. Other lands were set aside and zoned as wao akua, where human activity was kept to a minimum, either for safety from elemental activity or to keep the area pristine to maintain our natural resources.

Kīho'iho'i Kānāwai - the edict of regeneration; when natural disaster or human activity changes the landscape, the land needs time to regenerate and reestablish its natural cycles. In the case of natural disasters, ecosystems can respond to restore balance in short order. Our ancestors understood this and recorded these phenomena in the Kumulipo, 'o ke akua ke komo, 'a'oe komo kanaka. In the case of human disturbances, however, the capacity of natural systems to adjust depends on the nature of the system, the scope, scale, and duration of the activity, as well as the nature of its byproducts. Ecosystems with severe human disturbance often take longer to regain its balance, necessitating sustainable human intervention.

This bill establishes a nine (9) member authority (Sec-2) headquartered on Hawai'i Island with two (2) ex-officio voting members from DLNR and OHA and seven (7) members with specific expertise and qualifications. A nominating process (Sec-3) is comprised of two separate committees who will provide a short list of names to the Governor for selection. A public notice process is prescribed to encourage community input and participation in the selection of authority members. A minimum of four (4) non ex-officio members shall be Native Hawaiian Hawai'i County residents with a preference for all non ex-officio members to be Native Hawaiian Hawai'i County residents.

Importantly, the authority will have jurisdiction (Sec-7) over State of Hawai'i controlled lands from Pu'u Huluhulu, approximately 6,500 ft. Elevation to and including the summit region. These lands will transfer from the Department of Land and Natural Resources to the new authority. The authority is further directed to enter into cooperative agreements with the Department of Hawaiian Homelands as well as any other landowner which fall within the 6,500 ft. Elevation boundary. This is a significant change in the current management scenario which will allow for the authority to manage the mauna according to the environmental needs and conditions of the natural region rather than through agency and man-made boundaries.

A transition period (Sec-5) of three years is provided for the new authority to become functional. **It is important, however, to add a restriction on any new or extended leases to be granted or established for astronomy facilities on Mauna A Wākea during this transition until the new authority has the ability to establish their management plan and consider the astronomy development framework (Sec-6) which is included in this legislation.** This section also directs the authority to establish a plan to return the mauna above the 9,200 ft. Level, above Hale Pōhaku, to its natural state. It is a planning scenario which should take into account the lifespan of existing facilities and potential development of new technologies which are superior to land-based observation which has been the practice for the last 50+ years. The authority is directed to develop a plan to manage land use, human activities, uses and access, including permitted uses for frequent and seasonal users, stewardship; education; research, disposition; and overall operations. Plans are to be updated every 10 year, consider the State's energy and sustainability goals, including climate change impacts, incorporate indigenous management and cultural practices and values, and include an aspirational statement to acknowledge and contextualize unresolved social justice issues that underpin Mauna Kea.

Astronomy and Native Hawaiian Culture advisory groups (Sec-9) will be established to provide advice and guidance to the authority. Modeled after the Papahānaumokuākea governing entity, this authority has the ability to establish other working groups as needed.

There is a provision (Sec-8) that the lands under the jurisdiction of the authority will be held in trust as part of the public land trust and transferred to a sovereign Native Hawaiian entity upon its establishment. This language mirrors the language in the Kaho'olawe Island Reserve Commission Act.

There is a section on Access and Use (Sec-11); restrictions; orientation; entryway which provides direction for the authority to govern commercial activities and human uses on the mauna which are currently uncontrolled. Ecological and cultural values of the mauna are key elements for education and orientation for visitors and users of Mauna a Wākea.

Finally, there is a section (Sec-12) on Lease provisions and decommissioning costs for astronomical observatories to ensure that these facilities will plan for and finance these costs.

The Mauna Kea - **Mauna A Wākea Stewardship Authority** legislation will establish a new paradigm for managing and caring for our Wahi Pana, significant cultural, historic and ecologically important places in Hawai'i based on Hawaiian cultural values and principles. Also of importance is the need for Native Hawaiian and community participation in the formation and ongoing oversight of these entities and these special places. It is our legacy and our kuleana, received from our kupuna and passed down to our generations to come.

Your support of this bill and addition of these key pieces in the legislation is greatly appreciated.

Mahalo a nui loa.

WAIMEA HAWAIIAN CIVIC CLUB

P O Box 6305
Kamuela, HI 96743

February 17, 2022

Aloha members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance,

Thank you for the opportunity to provide written testimony in **SUPPORT** of **HB2024**. The proper stewardship of Mauna a Wākea has long been debated with numerous Native Hawaiian, environmental and community groups raising concerns over the decades.

Formal reviews have validated the community's concerns. The Hawai'i State Auditor's Office released reports in 1998, 2005, 2014, and 2017 that were critical of the University of Hawai'i's (UH) stewardship of Mauna a Wākea. Most recently, the Department of Land and Natural Resources' "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan" found that the while UH's management of Mauna a Wakea had improved, it failed to timely approve administrative rules; failed to consult with the Native Hawaiian community on cultural resources issues; and failed to engage with the community, particularly the Native Hawaiian community, on education and outreach efforts.

HR33, HD1, aimed to address these longstanding issues by establishing a Mauna Kea Working Group (Working Group) to provide recommendations to develop a new governance and management structure for Mauna a Wākea.

As supporters of a healthy and protected Mauna a Wākea, we strongly urge you to pass HB2024 with the following amendments:

- Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report Ho'okikī Kānāwai, Kua'ā Kānāwai, Kai'okia Kānāwai, Kīho'iho'i Kānāwai;
- Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group's Report; and
- Add language that would require the University of Hawai'i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

In conclusion, the leadership of the House of Representatives declared a bold commitment to take steps towards economic, cultural and environmental justice. Your support of HB2024 will

make good on your commitments to your constituents, and Hawai‘i’s precious natural and cultural resources.

Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group: He lā hou kēia ma Mauna a Wākea. A new day has indeed arrived on Mauna a Wākea.

Me ke aloha no Mauna a Wākea,

EDITH KAWAI

Waimea Hawaiian Civic Club

President

HB-2024

Submitted on: 2/17/2022 11:14:09 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Laine M Maeda	Super Vacation Hawaii	Comments	No

Comments:

Aloha,

My name is Laine Maeda and I have been working for Super Vacation Hawaii as a tour guide on Mauna Kea for a few years now. We do a sunset and stargazing tour on Mauna Kea. I am a forth generation Hawaii born man. I understand the Hawaiian peoples fight to try to keep their sacred Mauna as prestine as possible. I do feel that they do have the right to decide what happens on the Mauna, but I would like to make a request on behalf of all the permitted tour companies that go up Mauna Kea. We (Super Vacation Hawaii) try to do tours that are both educational and entertaining. We try to teach about Hawaiian culture and history in our speeches to our guests. We also try to educate our guests about astronomy and the observatories. Our tour brings up many people at once reducing traffic up and down the mountain. Our experienced drivers ensure the safety of our guests. I'm sure that I don't have to remind everyone of the recent death of a young girl on Mauna Kea because of break failure. We also talk about conservation efforts for the palila bird and the mamane tree. We are always respectful of the Mauna double checking to bring back any rubbish around the area we do our tour in. I truly believe that our tour is good for Mauna Kea. We generate revenue with our entrance fees, we reduce traffic up and down the mountain and ensure their safety. If our permitted tour did not exist many illegal tours would become the norm. Many of our guests tell us that this is the best tour they go on in Hawaii. It would be an injustice to deny our guests this opportunity. In conclusion, we are a taxpaying permitted company that generates income for both Mauna Kea and the state. We are an educational company teaching both Hawaiian History and astronomy. We provide an important service bringing up our guests safely reducing traffic. Please keep permitted tours up Mauna Kea. Mahalo

Subj: Testimony AGAINST HB2024 -§ -11 Access and use; restrictions; orientation; entryway. (a)The authority shall prohibit commercial use. Hearing on 2/19/2022 9am

I'm Sadanori Sunny Takeishi, who runs a tour company called Taikobo Hawaii. I have been touring to the summit of Mauna Kea for 28 years since I received permission from DLNR to tour Mauna Kea in 1994.

There is no need to deprive a company that has already obtained a permit and invested a lot to safely tour using a van converted to 4WD.

Since the environment near the summit is very special, we have endeavored to guide customers safely to the summit by gaining training, education and experience of ourselves and our guides.

At first, there were few ordinary people who came by rental car, but due to the spread through SNS etc., the number of people who drive and climb the 4200m mountain for the first time has increased. Accidents and troubles have increased.

Protecting Mauna Kea's nature and Hawaiian culture, and respecting and communicating it, requires well-trained and educated guides.

Protecting Mauna Kea's nature and Hawaiian culture, you need to either stop renting a car to the top of the mountain or make a reservation to limit the number of cars and have an orientation.

We have also helped to pick up and drop off many people

at events and maintenance at the observatory near the top of the mountain.

Even if the van is properly maintained, it may break down. At that time, we have ensured the safety of our customers by cooperating with Mauna Kea Ranger and other tour companies.

Through the history and culture of Hawaii, gratitude, compassion, and coexistence for nature that people have forgotten, and beyond the starry sky seen from the earth's PIKO Mauna Kea, which is connected to the universe, the earth that is being utilized in the activities of the universe It is our lifework to guide you to the summit of Mauna Kea where you can experience us.

This is the significance of the commercial tour.

Our Mission

Taikobo Hawaii, Inc. is dedicated to promoting a deep appreciation of and respect for the natural beauty, culture, and history of the Big Island of Hawaii and the Hawaiian People by providing a variety of safe, enjoyable, and educational tours to visitors from all over the world by focusing company resources on the development of hospitable and knowledgeable guides and safe and comfortable tour vehicles.



House Committees on Water & Land / Judiciary & Hawaiian Affairs / Finance

Saturday, February 19th, 2022, 9a.m. Conference Room 430

Hawai'i Alliance for Progressive Action Support: HB2024

Aloha Chairs Inouye/Nakashima/Luke, Vice Chairs Keith-Agaran/Matayoshi/Yamashita and Members of the Committees,

On behalf of the Hawai'i Alliance for Progressive Action (HAPA) I am submitting testimony in support of HB2024.

HAPA supports the intent of this bill to develop a stewardship authority, with Hawaiian leadership, outside of University of Hawai'i to manage this important site.

HB2024 establishes the Mauna Kea stewardship authority as the sole authority for management of state-managed lands on Mauna Kea, and develops a plan, framework and management system for the stewardship authority.

UH has demonstrated time and time again their inability to properly manage the activities, development and ecosystem on the mountain.

There is no longer confidence in UH to properly manage Mauna Kea. We support trying something new and establishing this stewardship authority instead of continuing with something we know isn't working.

We support a stewardship authority rooted in Hawaiian leadership and representation whose interest is the collective good, not just that of UH.

Please support HB2024.

Mahalo for your consideration,

A handwritten signature in black ink, appearing to read 'Anne Frederick'.

Anne Frederick
Executive Director



UNIVERSITY OF HAWAII SYSTEM

Legislative Testimony

Testimony Presented Before the
House Committee on Water & Land,
House Committee on Judiciary & Hawaiian Affairs, and
House Committee on Finance

Saturday, February 19, 2022 at 9:00 a.m.

By

Greg Chun, Executive Director
Center for Maunakea Stewardship
University of Hawai'i at Hilo

HB 2024 – RELATING TO MAUNA KEA

Chairs Tarnas, Nakashima, and Luke, Vice Chairs Branco, Matayoshi, and Yamashita, and members of the committees:

Mahalo for the opportunity to comment on HB 2024, Relating to Mauna Kea. The University of Hawai'i is committed to the comprehensive and holistic principles for Maunakea stewardship advocated in the Mauna Kea Working Group ("MKWG") Report ("Report") and as called for in HB 2024. These principles are widely accepted as underlying accepted best practice in land and ecosystem management which are reflected in the collective commitments we have made through our Master Plan, Comprehensive Management Plan, component- and sub-plans, and our Administrative Rules. However, the University respectfully opposes HB 2024 for multiple reasons which are outlined in the attached response submitted during the public comment period on the MKWG draft report. We would like to take this opportunity to highlight a few of the more salient issues outlined in those comments.

1. Astronomy on Maunakea is a long-standing state policy. HB 2024 creates a new management entity with the authority to, among others things, "establish a plan to return the mauna above nine thousand two hundred feet elevation to its natural state." Support for astronomy on Maunakea goes back for more than fifty years. At that time, the State decided that it did not want to just be a passive landlord for the best observatories in the world but that Hawai'i should be the home of a world-class program of astronomy research and education. This has enabled Hawai'i to participate in and lead the discoveries that underlie human understanding of the origins of the universe and the celestial bodies around us.

Maunakea is truly deserving of the highest levels of stewardship. Decisions on access to Maunakea for culture, science, education, recreation, and commercial activities require broader policy discussions involving stakeholders across multiple communities and policy-makers on Hawai'i Island and the State. No single state

entity, the creation of which is proposed in HB 2024, should have the sole authority to make that policy decision on behalf of the state. Further, upon close examination the recommendation to eliminate astronomy is not substantiated in wider stakeholder input submitted during the comment period for the Report.

2. The complexities and costs of managing access to public lands have been underestimated in the Report upon which HB 2024 is based. Under the proposed powers and duties of this new entity, public access appears to be more restrictive and does not reflect the wide variety of values the broader community holds towards Maunakea, including recreational, subsistence, educational, and economic uses. Access to Maunakea by Hawai'i Island residents, including native Hawaiian practitioners, is one of the most contentious and consistently raised concerns in matters related to Maunakea. The Report underestimates the complexity of addressing public interests and coordinating across the various jurisdictions on Maunakea. Further, the proposal to include adjacent State and private lands into the jurisdiction of the new Governing Entity greatly exacerbates the complexities of the enterprise and significantly increases its resource requirements, which itself has not been adequately evaluated in the Report.
3. Legal, administrative, and funding issues present risks for implementation of the MKWG's Proposal. There are a number of legal, administrative, and funding concerns raised by the MKWG's proposal that will require further analysis and discussion. These include but are not limited to:
 - a. The potential constitutional concerns related to race-based membership of a government entity with control over state lands and resources.
 - b. The Report does not account for the complexity of the various jurisdictions on Maunakea, and the variety of funding sources that will need to be shored up, or replaced with general funds.
 - c. The lack of key Stakeholder representation on the board of the new Governing Entity (i.e., astronomy, UH, federal partners) will in and of itself create governance and funding problems.
 - d. The complexities and risks of successfully working through the aforementioned tasks of realigning, much less simply coordinating, management of public lands that are currently under leases and/or the jurisdiction of different agencies with different administrative rules.

All of these are complex issues and any one of these could significantly impede implementation of the proposed governance structure given the contentious nature of Maunakea stewardship and the significant resources required. Respectfully, attaching the success of a newly established entity to highly speculative outcomes is irresponsible without considerably more cost-benefit analyses than is provided in the Report and to substantiate HB 2024.

The basis of HR 33 HD1 (2021) that established the MKWG, the MKWG Report, and HB 2024 are claims that the University has mismanaged Maunakea. The University has

acknowledged and apologized for its stewardship of Maunakea prior to 2000. Subsequent state audits of the University's management of Maunakea have documented our commitment and improvement over time. Further, DLNR's 2020 Independent Evaluation of the University's implementation of the comprehensive management plan (CMP) showed that people's perceptions of UH's effectiveness as manager were associated with whether people supported telescope development on Maunakea. No change in management practice will satisfy many of those who oppose TMT or even astronomy on Maunakea. This is not a management issue; this is a policy issue that requires broader discussion.

As you know, the University's current lease for the Maunakea Science Reserve (MKSR) expires in 2033. Discussions have begun for a new land authorization; the current preferred alternative is to seek a new land authorization for a reduced area including the astronomy precinct, access road, and Halepōhaku only, effectively withdrawing 10,000 acres from the science reserve and returning them to DLNR management. The University continues to seek opportunities to work collaboratively to enhance stewardship of the mauna.

In closing, the University should be judged by our complete record which shows substantial improvement over time across multiple dimensions. Our commitment has been reliably demonstrated in time, effort, and resources committed by us over the years in the exercise of our stewardship responsibilities for the privilege of access we have. And as a result, as reported by many in the Independent Evaluation ***"...the cultural and natural resources on the state conservation lands on Mauna Kea are some of the best managed and protected lands in the entire State"*** and we have a world class research enterprise Hawai'i can be proud of.

Mahalo for the opportunity to provide our testimony. Further details outlining our opposition to HB 2024 are outlined in our response to the MKWG Report which we have attached here.

University of Hawai'i Response to the Maunakea Working Group's Draft Report:
He Lā Hou Kēia Ma Mauna A Wākea: A New Day On Mauna A Wākea

Mahalo for the opportunity to provide comments on the Mauna Kea Working Group's ("MKWG") Draft Report to the Hawai'i State Legislature entitled, *He Lā Hou Kēia Ma Mauna A Wākea: A New Day On Mauna A Wākea* ("Report"). It is clear from the Report that the MKWG worked diligently in fulfilling their charge.

We have organized our response around five themes that arise from the content of the Report: 1) The University of Hawai'i (UH) embraces the value of the Kānāwai principles; 2) The MKWG's recommendations risk the future of astronomy in Hawai'i and beyond; 3) The complexities and costs of managing access to public lands have been underestimated; 4) Legal and administrative concerns; and 5) UH's responsible stewardship of Maunakea.

Our cover letter summarizes our views on these themes with further elaboration provided in the Attachment. Our intent is to provide an overview of the real challenges and implications of the Report and provide background that should be considered prior to contemplating and drafting legislation seeking to build upon the recommendations in the Report. Further discussion is welcomed.

1. The Kānāwai principles are consistent with UH plans for Maunakea

We acknowledge and appreciate the holistic and integrated approach of the Kānāwai principles described in the Report. The symbiotic connections between the elements of nature, and of nature with humans, emphasizes the importance of sustaining balance between these forms. These principles are valuable guidelines for land use planning and decision making. We understand that stewardship of Maunakea is a privilege that requires a comprehensive and cohesive management program. The University embraces these perspectives, which are reflected in the integrated and balanced nature of our own Master Plan including our proposed update, our Comprehensive Management Plans, and our Administrative Rules that collectively and specifically outline our commitments and responsibilities to Maunakea, the state, and the communities we serve.

As you know, managing public lands, especially 'āina with as many complexities and conflicting expectations is extraordinarily complex. We are committed to continuous improvement and look forward to improving the application and integration of these principles into the University's existing and next plans within the context of governing laws and regulations.

2. The MKWG Report places the future of astronomy at risk

Foundational to the Report's recommendations is the position of the MKWG that astronomy on Maunakea above the 9,200 foot elevation should be phased out as an allowed land use (Page 25).

Support for astronomy on Maunakea is a longstanding State policy going back more than fifty years. At that time, the State decided that it did not want to just be a passive landlord for the best observatories in the world but that Hawai'i should be the home of a world-class program of astronomy research and education. This has enabled Hawai'i to participate in and lead the discoveries that underlie human understanding of the origins of the universe and the celestial bodies around us. It is not an overstatement to say that what is at risk here is the future of

astronomy as a field of human inquiry, as a source of economic activity on Hawai'i Island, as an inspiration for Hawai'i's youth, as a source of pride for the people of Hawai'i, and as an area of international excellence for UH and our students. Consistent with its place in Hawaiian cultural tradition and cosmology, *Maunakea stands as a uniquely treasured scientific and community resource.*

Maunakea is truly deserving of the highest levels of stewardship. Decisions on access to Maunakea for culture, science, education, recreation, and commercial activities require broader policy discussions involving stakeholders across multiple communities and policy-makers on Hawai'i Island and the State. The recommendation to eliminate astronomy is not substantiated by wider stakeholder input in the Report.

The risk to astronomy's future is further amplified by the lack of specifics in the implementation plan for establishing the new Governing Entity proposed by the MKWG. Numerous steps would need to be achieved to establish the new Governing Entity including, but not limited to, enabling legislation, land transfers, development of land use and management plans, permitting requirements, development and coordination of administrative rules across jurisdictions, standard operations start-up, and the potential for appeals at multiple steps along the way. At the Board of Regents direction, the UH administration conducted its own analysis of alternate governance models for Maunakea in 2020. The MKWG's projected timeline of three years to establish the new Governing Entity is unrealistic and exacerbates the risk to the future of astronomy due to the impending termination of the current general lease in 2033. These are no small steps and the lack of a viable business plan on top of these challenges makes success highly speculative, especially with the Report's reliance on general fund appropriation.

3. The complexities and costs of managing access to public lands have been underestimated

Under the proposed powers and duties in the Report, public access appears to be more restrictive and does not reflect the wide variety of values the broader community holds towards Maunakea, including recreational, subsistence, educational, and economic (including commercial tour operator) uses. Does the MKWG propose to prohibit snow play? Hunting? Hiking? Who would determine the legitimacy of claims made by individual native Hawaiian cultural practitioners?

Access to Maunakea by Hawai'i Island residents, including native Hawaiian practitioners, is one of the most contentious and consistently raised concerns in matters related to Maunakea. The Report underestimates the complexity of addressing public interests and coordinating across the various jurisdictions on Maunakea. The proposal to include adjacent State and private lands into the jurisdiction of the new Governing Entity exacerbates the operational complexities of the enterprise and significantly increases its resource requirements. It is also unclear on how new rules and procedures the new Governing Entity adopts would integrate with existing rules governing activities on DLNR, DHHL, County, and private landowner property that is included in the new land area defined in the Report. Importantly, who does the MKWG propose to allow to have access, who will it prohibit, and who will make decisions about how individuals are placed into categories that are allowed or disallowed access?

Finally, the Report does not meaningfully address the resource requirements of the new Governing Entity. Annual operating costs for stewardship alone are \$12M, the majority of which is covered by extramural and non-general funds generated by the University. In addition, the University provides world-class global network connectivity for all Maunakea Observatories so

that the data collected on the mountain can be shared with researchers and students at institutions around the world. Under the new management regime being recommended, absent other sources of revenue because of the uncertainty created about future access and use, a substantial investment by the State will be required to support a new stewardship program that would have jurisdiction for significantly more land than the current program.

4. Legal, administrative, and funding issues present risks for implementation of the MKWG's proposal

There are a number of legal, administrative, and funding concerns raised by the MKWG's proposal that will require further analysis and discussion. These include but are not limited to:

- A. The potential constitutional concerns related to race-based membership of a government entity with control over state lands and resources.
- B. The Report does not account for the complexity of the various jurisdictions on Maunakea, and the variety of funding sources that will need to be shored up, or replaced with general funds.
- C. As discussed before, stakeholder representation on the board of the new Governing Entity will in and of itself create governance and funding problems.
- D. The complexities and risks of successfully working through the aforementioned tasks of realigning, much less simply coordinating, management of public lands that are currently under leases and/or the jurisdiction of different agencies with different administrative rules.

All of these are complex issues and any one of these is a potential show stopper given the contentious nature and resources required of them. Attaching the success of a newly established entity to highly speculative outcomes requires considerably more cost-benefit analyses than is provided in the Report.

5. The University's commitment and ability to successfully steward Maunakea has been demonstrated

The University has acknowledged and apologized for its stewardship of Maunakea in the last century. Subsequent state audits of the University's management of Maunakea have documented our commitment and improvement over time. In its *Report on the Implementation of State Auditor's Recommendations 2014 – 2017*, the State Auditor noted that of the several audit recommendations from 1998, only four (4) were outstanding as of its November 2019 report. One item, directly under the control of the University, was completed with the University Board of Regents' ("BOR") adoption of Hawai'i Administrative Rules ("HAR") chapter 20-26 on November 6, 2019 (approved by the governor on January 13, 2020). The University is actively working on the remaining three (3) items in coordination with DLNR, which has final approval on these particular tasks. These remaining items are dependent on whether a new general lease is to be granted to UH and, more significantly, whether there is a future for astronomy on Maunakea, both of which are decisions outside UH's sole authority.

The University is charged with implementing 103 management actions in the *Mauna Kea Comprehensive Management Plan*, adopted by BLNR in 2009 ("CMP"). The University's implementation of the CMP was the subject of an independent review conducted by Kuiwalu in December 2020 at the direction of DLNR ("Independent Evaluation"). DLNR's Independent Evaluation of the University's implementation of the comprehensive management plan showed that UH had achieved good or some progress on 8 of the 10 desired outcomes identified in the

CMP. The two outcomes where we received a minimal progress rating are actively being worked on. This evaluation also found that **people's perceptions of UH's effectiveness as manager were associated to whether people supported telescope development on Maunakea, i.e.,** no change in management practice will satisfy many of those who oppose TMT or even astronomy on Maunakea. This is not a management issue; this is a challenging and contentious statewide policy issue that is, again, not a decision that UH alone makes.


Our efforts to improve stewardship have been recognized by the community. In 2017 UH received the Pualu Award from the Kona-Kohala Chamber of Commerce for our education and outreach. In 2017 UH received a Preservation Commendation Award from the Historic Hawai'i Foundation for our interpretative efforts. And in 2016 we received the Pualu Award for Environmental Awareness from the Kona-Kohala Chamber of Commerce. Finally, and perhaps most notable, in 2011 the Wekiu Bug was removed from endangered species candidate list because of our ecosystem restoration efforts.

The University should be judged by our complete record which shows substantial improvement over time across multiple dimensions. Our commitment has been reliably demonstrated in time, effort, and resources committed by us over the years in the exercise of our stewardship responsibilities for the privilege of access we have. ***The University believes that the criticism of "mismanagement" often levied against UH, and seemingly the basis for the Report, is now inaccurate and derives from the accusations of those who oppose the state policies in support of astronomy on Maunakea rather than the actual practices of the University.***

For these, and the reasons further detailed in the Attachment, we humbly suggest that instead of creating a new entity, the focus turns to what the Hawai'i Island community, native Hawaiian practitioners, Maunakea observatories, and DLNR have learned over time to continuously improve the University's stewardship of what has become one of the most, if not the most complex land management challenge in Hawai'i.

We are available for any questions you or others may have regarding our comments and our stewardship program.

Na māua iho nō me ka 'ōia'i'ō,



David Lassner
President, UH System



Gregory Chun
Executive Director, Center for Maunakea Stewardship

ATTACHMENT

University of Hawai'i (UH) Response to the Maunakea Working Group's Draft Report: He Lā Hou Kēia Ma Mauna A Wākea: A New Day On Mauna A Wākea

1. The Kānāwai Principles are Consistent with UH Plans for Maunakea

UH acknowledges and appreciates the holistic and integrated approach of the Kānāwai principles described in detail in the Foreword, Introduction, and Chapters 2 and 3 of the Report. The symbiotic connections between the elements of nature, and of nature with humans, emphasizes the importance of sustaining balance between these forms. As stated in the report:

"Normalizing the use of these traditional kānāwai in our modern society protects the life of kanaka, flora and fauna, as well as the health of the environment and the balance of its natural cycles. Developing this worldview can start with an inquiry into native ecology, observing nature, developing a relationship and appreciation of natural phenomena, and exhibiting a sense of responsibility in protecting that which nurtures and feeds us, the 'āina." (Page 5).

The connected nature of our surroundings and, therefore, the importance of sustaining balance between the various branches of the natural world are well established in many indigenous cultures. It is a lesson lost upon a large fraction of the world's population and as an institution grounded in science, UH finds the concepts laid out in the four kānāwai to be sound and relatable. They are the product of centuries of observation and learning in an island setting, developing practices that fundamentally sustain populations of living organisms, including humans, over long periods of time. Embracing them in the future makes sense, given the demonstrated success of their application in the past.

Chapter 3 of the Report is an attempt to bridge the elegant concepts laid out in the previous chapters into a management structure predicated on the kānāwai. Guiding principles are articulated, including:

"We are driven by creativity and innovation, constantly challenging the status quo. Our stewardship of Maunakea is informed based on existing knowledge and traditions (kānāwai) as well as on new and expanding knowledge. We are mindful and observant of needs, trends, and opportunities and seek new knowledge and opportunities in ways that enhance our ability to serve as stewards without jeopardizing our foundation of 'āina aloha." (Page 20).

This is an important statement because it explicitly acknowledges the importance of continuity in knowledge systems to support 'āina aloha, past, present, and future through "...new knowledge and opportunities...". It is a hopeful and upbeat statement, but the report fails to identify how the approach proposed would actually lead to "new knowledge and opportunities" for our community. It sets up a dichotomy of interests and begs the question, what is the ultimate goal of the proposed management model?

The management of public lands is complicated, as you know, and as any agency will tell you. But, unlike any other land management framework in the state, the University has several layers built into its management framework that includes the Hawai'i Island community, academics, observatory operators, and the native Hawaiian community who are represented at various levels of decision making. This framework for managing lands on Maunakea was developed

over decades. The University has built constituencies, infrastructure, and funding to support its efforts. The University's new draft Master Plan and our updates to the Comprehensive Management Plan consider and incorporate what has been learned. Through its experience, the University has successfully moved toward a more balanced goal of astronomy, stewardship, and respect for Maunakea.

The University understands that stewardship of Maunakea is a privilege that requires a comprehensive and cohesive management program. The University embraces the intent of the k^ān^āwai, which is reflected in the integrated and balanced nature of our master plan and our proposed update, management plans, and administrative rules that collectively outline our commitments and responsibilities to Maunakea, the state, and the community in specific terms. These principles are valuable guidelines for land use planning and decision making and we are committed to continuous improvement and look forward to learning how to improve the application and integration of these principles into the University's existing plans and policies and within the context of governing law and regulation. Maunakea lands currently managed by the University are ceded lands with great cultural significance to native Hawaiians. Ceded lands are held in trust for the five (5) purposes enumerated under section 5(f) of the Admission Act of 1959 and the k^ān^āwai principles can help further balance those objectives.¹

2. The MKWG Report places the future of astronomy is at risk

Foundational to the Report's recommendations is the position of the MKWG that astronomy on Maunakea above the 9,200 foot elevation will no longer be an allowed land use:

"The Governing Entity shall develop a framework to limit astronomy development on the mauna, through development limitations that may include limitations on the number of astronomy facilities or an astronomy facility footprint limitation; provided that in establishing a framework to control astronomy development on the mauna, the Governing Entity shall establish a plan to return the mauna above 9,200 feet elevation to its natural state" (Page 25).

The Report also states that the MKWG had robust discussions over whether future legislation should limit the current astronomy footprint:

"The full Working Group had a robust conversation as to whether the Governing Entity should be prohibited from allowing either an increase to the current number of astronomy facilities or an increase to the current astronomy development footprint. Ultimately, the Working Group was not able to reach an agreement, with some members preferring not to set a specific astronomy footprint or astronomy facility number limit in legislation and others wanting a smaller footprint or less telescopes than what currently exists. Some members wanted a lower number of telescopes, such as the Governor's and the University of Hawaii's proposed nine telescopes. Nine telescopes, while a lower number than the thirteen telescopes that currently exist on the mauna, still represents an increase in the current astronomy footprint, which was unacceptable to some members" (Page 25 Footnote 5).

¹ Section 5(f) of the Admission Act, provides that ceded lands trust purposes are "[1] the support of the public schools and [2] other public educational institutions, [3] the betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended, [4] the development of farm and home ownership on as widespread a basis as possible for the making of public improvements, and [5] the provision of lands for public use."

The Report is also not clear on the question of funding and the details of implementation are lacking:

“To support the Governing Entity, a special fund shall be created as an on-going revenue base of funding. The Governing Entity shall consider various supplemental revenue sources to be deposited into the special fund, including but not limited to renegotiated lease terms and fees; observatory use fees; common area maintenance; toll fees; general funds; ecosystem service fees; user fees; other surcharges or fee structures; and state, county and federal funding” (Page 27).

“To assure that the Governing Entity has adequate time to establish itself, the Governing Entity shall have a transition period of three years to assume management of Mauna a Wākea lands”; and,

“To help establish the Governing Entity, general funds should be allocated by the Legislature for at least the first five years. Special funds shall also be used to provide financial support for the Governing Entity.” (Pages 24 and 27)

Further, the Report states decision making regarding the new managed lands will be under the “sole authority” of the proposed new Governing Entity:

“The Governing Entity shall be the sole authority for the management of designated state-owned lands on Mauna a Wākea (See JURISDICTION)” (Page 24).

Collectively, the result of these proposed changes, *i.e.*, uncertainty regarding: the future for astronomy, implementation requirements, and decision-making authority, is to increase substantially the risk to the ongoing viability of astronomy. Importantly, the process for implementing the recommendations must occur at an unprecedented pace to enable a future for Maunakea (Hawai‘i) astronomy. Numerous steps would need to be achieved including but not limited to enabling legislation, land transfers, development of land use and management plans, development and coordination of administrative rules across jurisdictions, and operations start-up. The projected timeline of three years to establish the new entity is unrealistic and exacerbates the risk to the future of astronomy due to the impending termination of the current general lease in 2033 (see section 5 herein for UH’s governance analysis). The lack of a viable business plan on top of these make success highly speculative, especially with the Report’s reliance on general fund appropriation.

It must also be noted that these changes require not just State of Hawai‘i approval but they must be embraced by US and international federal funding agencies that are wary of large-scale change without assurances of long-term stability. The prospect of protracted litigation, on top of all the other challenges to forging, funding, and implementing a new Governing Entity in the three years prescribed, will surely push the timescale for this proposal well beyond the horizon of viability for the existing Maunakea Observatories.

Support for astronomy on Maunakea is a longstanding State policy going back more than fifty years. At that time, the State decided that it did not want to just be a passive landlord for the best observatories in the world but that Hawai‘i should be the home of a world-class program of astronomy research and education. This has enabled Hawai‘i to participate in and lead the discoveries that underlie human understanding of the origins of the universe and the celestial

bodies around us. It is not an overstatement to say that what is at risk here is the future of astronomy as a field of human inquiry, as a source of economic activity on Hawai'i Island, as an inspiration for Hawai'i's youth, as a source of pride for the people of Hawai'i, and as an area of international excellence for UH and our students. Consistent with its place in Hawaiian cultural tradition and cosmology, *Maunakea stands as a uniquely treasured scientific and community resource.*

3. The complexities and costs of managing access to public lands have been underestimated

Under the proposed powers and duties in the Report, public access appears to be more restrictive and does not reflect the wide variety of values the broader community holds towards Maunakea, including recreational, subsistence, educational, and economic (including commercial tour operator) uses. Does the MKWG propose to prohibit snow play? Hunting? Hiking? Who would determine the legitimacy of claims made by individual native Hawaiian cultural practitioners?

Access to Maunakea by Hawai'i Island residents, including native Hawaiian practitioners, is one of the most consistently raised concerns in matters related to Maunakea. The Report's proposal appears to be more restrictive and may not reflect the wide variety of values the broader community holds towards Maunakea, including recreational, subsistence, educational, and commercial uses. For example, the Report states on pages 24 and 26:

*"The Working Group recognized that the scope of managing an area of such important cultural significance and geographic size presents many challenges. **Additionally, because Mauna a Wākea is the kuahiwi, or backbone, of Hawai'i Island in a structural, physical, and spiritual sense, the Governing Entity should work toward decreasing the human footprint of all users and visitors of Mauna a Wākea.**" (Emphasis added); and,*

"The Governing Entity shall establish a management framework guided by the Kumu Kānāwai to manage access, stewardship, education, research, permitted uses for frequent and seasonal users, and overall operations. The Governing Entity shall also prohibit commercial use and activities (not including astronomy) above Hale Pohaku and develop rules to designate areas for permissible use, including defining "commercial use."; and,

"The Governing Entity shall consider restrictions via applications and registration processes to ensure user compliance. Additionally, the Governing Entity shall require an application for all recreational uses, including fees, and create guidelines on limits by monitoring the impacts of recreational use over time."

In 2020 Governor Ige approved Hawai'i Administrative Rules ("HAR") Chapter 20-26 which was developed by the University with significant public input received over multiple years, to be able to enforce our stewardship responsibilities. HAR Chapter 20-26 regulates commercial and public activities on Maunakea lands managed by UH. The rules allow activities subject to the impacts of those activities being addressed. Commercial activities, such as commercial tours, are regulated by permit and operators are required to pay for the impact they have on the resources and for use of public facilities. Commercial tour operators provide a needed service by reducing independent vehicles driving up Maunakea, and this activity provides economic opportunities for the local community. Under HAR 20-26 the University is authorized to levy fees and fines with the opportunity for appeal. The University regulates impacts to resources

caused by public and commercial activities, not native Hawaiian cultural practices. And despite vague criticisms to the contrary, the University has never denied access to native Hawaiian cultural practitioners.

Finally, the Report does not meaningfully address the resource requirements of the new Governing Entity. Annual operating costs for stewardship alone are \$12M, the majority of which is covered by extramural and non-general funds generated by the University. In addition, the University provides world-class global network connectivity for all Maunakea Observatories so that the data collected on the mountain can be shared with researchers and students at institutions around the world. Under the new management regime being recommended, absent other sources of revenue because of the uncertainty created about future access and use, a substantial investment by the State will be required to support a new stewardship program that would have jurisdiction for significantly more land than the current program.

4. Legal, administrative, and funding issues present risks for implementation of the MKWG's proposal

There are a number of legal, administrative, and funding concerns raised by the MKWG's proposal that will require further analysis and debate. These include but are not limited to:

- A. The potential constitutional concerns related to race-based membership of a government entity with control over state lands and resources.

While we understand the intent, the designation of members of a state entity by race raises state and federal constitutional questions. Note that the Kaho'olawe Island Reserve Commission (HRS § 6K-5) and the burial council (HRS § 6E-43.5), both referenced in the Report, do not limit seats on its boards to "native Hawaiians." Instead, for example, burial councils are comprised as follows:

"Regional representatives shall be selected from the Hawaiian community on the basis of the representatives' understanding of the culture, history, burial beliefs, customs, and practices of native Hawaiians in the region they each represent."

We acknowledge that other agencies have board compositions where seats are explicitly designated for native Hawaiians. For example, the Hawaiian Homes Commission Act § 202(a) provides that "at least four of the members shall be descendants of not less than one-fourth part of the blood of the races inhabiting the Hawaiian Islands previous to 1778." And, the Papahānaumokuākea Council Charter provides that members shall include "three Native Hawaiian representatives." However, the purposes of those bodies are distinctly different from the new Governing Entity. DHHL was established specifically for the benefit of native Hawaiians and Papahānaumokuākea is an interagency management collaborative where individual partners do not cede their jurisdiction to the collaborative. Board composition tied to race should be further evaluated, particularly when the authority of the new Governing Entity is to manage public lands and state resources.

- B. The Report does not account for the complexity of the various jurisdictions on Maunakea, and the variety of funding sources that will need to be shored up, or replaced with general funds.

- i. Public lands should remain with the State for the benefit of the public.

On page 24 of the Report, the MKWG states:

“The public land trust lands held by the Governing Entity shall be held in trust as part of the public land trust; provided that the State shall transfer management and control of the lands to a sovereign Native Hawaiian entity upon its recognition by the United States and the State of Hawai‘i”

This language mirrors Hawai‘i Revised Statutes § 6K-9, related to the Kaho‘olawe Island Reserve Commission. However, Maunakea is not Kaho‘olawe. While both are culturally significant, unlike Kaho‘olawe, Maunakea is actively used by the Hawai‘i Island community, including native Hawaiians, researchers, and others from across the state. These are ceded government lands that should remain with the State of Hawai‘i for the five (5) stated purposes under section 5(f) of the Admission Act.

- ii. The Report’s proposal to expand the land area under a new Governing Entity adds uncertainty and complexity to an already complex management issue.

The Report recommends a significant expansion of currently managed lands, pulling in private lands and other state lands managed under different laws as follows:

“the jurisdiction area for the Governing Entity shall be state-owned lands above the 6,500 foot elevation line, inclusive of Pu‘u Huluhulu to the summit of Mauna a Wākea, in order to care for Mauna a Wākea through an integrated, whole systems approach. Additionally, for lands outside of its jurisdiction, the Governing Entity shall enter into cooperative management agreements with the Department of Hawaiian Home Lands, County of Hawai‘I, and private landowners whose lands are within the jurisdiction area.”

Conservative estimates of this expansion could include approximately 56,000 acres of DHHL property, and more than 50,000 acres and 3,800 acres designated as DLNR Forest Reserve (“FR”) and Natural Area Reserve (“NAR”) land, respectively, in addition to other unidentified state, county, and privately owned lands that are referenced. The Report does not provide any details on how the new entity will manage state and private lands, and it is unclear what is meant by the new Governing Entity having jurisdiction over adjacent private lands as proposed in the Report. The Report discusses the idea of cooperative agreements but there could be significant property right issues raised through this expansion.

- iii. Powers and duties of the new Governing Entity are unclear and already exist.

Existing plans and rules developed and implemented by the University and DLNR over decades of learned and practiced management provide the integrated planning and decision-making framework suggested in the Report.

Chapter 3 of the Report details the powers and duties of the new governing entity on pages 24-25. Among other matters, it states that:

“...the Governing Entity shall develop a single plan that dictates the management of land uses; human activities, uses, and access; stewardship; and disposition. The plan shall be developed during the transition period; finalized and approved, and operational by the end of the transition period; and updated every ten years with a focus on long-term, comprehensive, coordinated planning for all of the managed lands. Additionally, the plan shall consider the state’s energy and sustainability goals, as well as impacts to climate change, including adapting to climate change and developing mitigation measures to climate change, and shall incorporate indigenous management and cultural processes and values.”

Before updating of the master plan for lands managed by the University on Maunakea, the University explored the idea of combining its two governing documents: the master plan adopted by BOR and the CMP adopted by BLNR. Based on the University’s assessment, in consultation with DLNR, we determined that combining them may not be practicable.

Both plans are implemented together and are consistent; however, each serves a different purpose. The CMP is a plan required when applying for a conservation district use permit. It addresses ongoing resource management practices to avoid, mitigate, or minimize impacts caused by proposed uses and activities. The master plan is the University’s vision for the lands it manages on Maunakea for a period of years, and it provides a framework for proposed land uses and decision making early in the planning process before a proposal is advanced to permitting, environmental review, and funding consideration. The University’s master plan and CMP, along with the administrative rules, collectively are required to achieve the state’s long-term goals of stewardship and sustainability.

Chapter 3 of the Report also provides that the new governing entity must comply with various statutes applicable to state agencies, but suggests that Maunakea lands be placed in the FR. On page 25 of the Report, it states:

“To maximize transparency, the Governing Entity shall be subject to administrative procedure pursuant to chapter 91, Hawaii Revised Statutes; Sunshine Law, pursuant to chapter 92, Hawaii Revised Statutes; the State Procurement Code, pursuant to chapter 103D, Hawaii Revised Statutes; and chapters 183, 205, 205A, and 343, Hawaii Revised Statutes.”

The Report suggests that these lands should be subject to HRS chapter 183, *Forest Reserves, Water Development, Zoning*. Lands designated FR will be subject to the rules and program under DLNR’s Division of Forestry and Wildlife (“DOFAW”). FR rules are far more restrictive generally than conservation district rules (e.g., it is unlikely that astronomy facilities would be allowed in the FR).

Building capacity to operate under HRS chapter 91, the Hawai’i Administrative Procedures Act (“HAPA”), takes time, staff, and resources. HAPA covers rule making, contested cases, and declaratory orders. The Report does not provide

detail on these resource-intensive requirements. These regulatory frameworks are needed, if as the Report suggests, the new entity will have more enforcement authority than the University currently has. The Report states on pages 26-27:

“[T]he Governing Entity shall work with the Department of Land and Natural Resources’ Division of Conservation and Resources Enforcement and Hawai’i County Police enforcement structure to enforce rules and monitor public safety through cooperative agreement. Additionally, the Governing Entity shall create operational procedures that are guided by the Kumu Kānāwai and implemented by enforcement partners.”

The Report is unclear on how new rules and procedures it adopts would integrate with existing rules governing activities on DLNR, DHHL, private, and other government lands included in the new land area defined in the Report. It is also unclear what the statement “...guided by the Kumu Kānāwai and implemented by enforcement partners” means to people who would visit Maunakea, such as Hawai’i Island residents, including native Hawaiians.

The University already has administrative processes and procedures in place. It already works under the sunshine law, procurement, HRS chapter 343, and other agency regulations related to land use. These processes have been scrutinized and tested by internal audits, state audits, DLNR oversight, and Hawai’i courts. How these matters are proposed to be handled directly impacts the viability and resource needs of the new entity.

C. The adequacy of stakeholder representation on the board of the new Governing Entity.

The Report recommends the establishment of a new attached state agency governed by a board of directors: On page 22, the Report states:

“The Governing Entity shall be attached to the Office of the Chairperson of the Board of Land and Natural Resources for administrative purposes. Decision-making for the Governing Entity shall be made by a nine-member board, of which seven seats shall be appointed and two seats shall be held by ex-officio members, with the board selecting a Chair from among its non-ex-officio members; provided that the Chair shall not be the Executive Director of the Governing Entity. Additionally, of the nine members, four of the seven non-ex-officio board members shall be Native Hawaiian Hawaii Island residents, with a preference for Native Hawaiian Hawaii Island residents for all seven non-ex-officio board seats.”

While the University agrees that broad representation on the governing board of a state land management entity is needed to ensure the range of perspectives Maunakea deserves, key expertise is lacking from the proposed structure, including seats for observatory and University representatives.

The MKWG’s lack of consensus for having astronomy representation and for eliminating University representation on the governing entity board is problematic. The Report argues that this would create a potential conflict of interest. First, it is not uncommon to have tenant and stakeholder representation on governing boards of attached state agencies. For example, the Natural Energy Laboratory of Hawai’i (“NELHA”) maintains

two seats on its board of directors for tenants who hold direct leases from the agency. Second, every board, public and private, deals with conflicts of interest through reporting and recusal procedures, so this alone is not sufficient reason to omit these important perspectives especially if they are a primary source of funding stewardship activities.

By contrast, the University's management framework includes community advisory groups, such as Mauna Kea Management Board ("MKMB") and Kahu Kū Mauna ("KKM") who have early and direct input into the decision-making process. Additional committees that advise the MKMB, like the Environment Committee ("EC"), provide additional, specific expertise. All of these advisory groups include Hawai'i Island members who are directly impacted by decisions on Maunakea.

- D. Working through the aforementioned complexities of realigning, much less simply coordinating, management of public lands that are currently under the jurisdiction of different agencies, subject to different administrative rules, appear to have been underestimated, like the time for of start-up and amounts of funding.

The details of the University's concerns here were outlined in section B(iii) above. The processes for working through the challenges of multiple jurisdictions are already in place so further analysis should be performed to discern the cost of duplication or replication of these processes, as compared with any purported benefit.

Each of these issues is itself complex, and any one of them is a potential show stopper given the contentious nature and resources required of them. Attaching the success of a newly established entity to highly speculative outcomes requires considerable more analysis before even attempting to draft legislation.

5. The University's commitment and ability to successfully to steward Maunakea has been demonstrated

While not explicitly stated in the Report, the rationale for the formation of the MKWG, and the need to establish a new governing entity, appears to be based on the assumption that a new entity could manage Maunakea better than the University. This assumption seems to be based on a snapshot of reports that evaluated the University's management over the years as well a lack of recognition of the University's own efforts and response to the University's critics.

- A. State audits of the University's management of Maunakea show improvement over time

The Report on page 3 cites a series of State Audits that began in 1998 and concludes with the statement that "Subsequent reports, which still identified shortcomings, were filed by the State Legislative Auditor's office in 2005, 2014, 2017, and 2019." The University has acknowledged and apologized for its stewardship of Maunakea in the last century, but subsequent state audits of the University's management of Maunakea have documented our commitment and improvement over time.

In its *Report on the Implementation of State Auditor's Recommendations 2014 – 2017*, the State Auditor noted that of the several audit recommendations from 1998, only four (4) were outstanding as of its November 2019 report. One item, directly under the control of the University, was completed with the University Board of Regents' ("BOR") adoption of Hawai'i Administrative Rules ("HAR") chapter 20-26 on November 6, 2019 (approved by the governor on January 13, 2020).

The University is actively working on the remaining three (3) items in coordination with DLNR, which has final approval on these particular tasks. These three (3) items are:

- i. “The University of Hawai‘i should renegotiate with existing sublessees to amend subleases to include provisions that address stewardship issues, as modeled by the provisions in the 2014 TMT sublease, following execution of the new general leases for UH-managed lands on Mauna Kea”;
- ii. “The Department of Land and Natural Resources should continue working with UH to renew the general leases for the UH-managed lands on Mauna Kea and ensure the leases are substantially in the form DLNR’s Land Division recommended for approval by the land board”; and
- iii. “The Department of Land and Natural Resources should use additional stewardship-related conditions contained within the TMT observatory permit as a template in all new observatory permits issued for the summit of Mauna Kea.”

The timeline on the first two of these audit items is affected by challenges brought by the Office of Hawaiian Affairs (“OHA”) and other groups who oppose TMT in several ongoing administrative and judicial appeals. If the Board of Land and Natural Resources (“BLNR”) grants the University another general lease, then BLNR must approve the first two items, which the University intends to comply with. The third audit item regarding whether BLNR grants a new astronomy facility conditional use permits is not within the University’s control.

These audit findings show the significant progress the University has made over time in fulfilling its management responsibilities. Reliance on those past audits as a measure of the University’s recent or current performance is no longer valid, and the past audits do not support taking the management away from the University. Instead, those audit reports confirm that the University has learned from its decades-long management and improved based on that experience.

- B. The Independent Evaluation of University’s implementation of the CMP was positive in most all areas, and the University has made changes to improve the few areas marked for improvement

The University is charged with implementing 103 management actions in the *Mauna Kea Comprehensive Management Plan*, adopted by BLNR in 2009 (“CMP”). The University’s implementation of the CMP was the subject of an independent review conducted by Kuiwalu in December 2020 at the direction of DLNR (“Independent Evaluation”).

The Report picked up on some aspects of the Independent Evaluation; however, it is important to consider the actual text of the Independent Evaluation. As stated in the Independent Evaluation:

“The purpose of this Independent Evaluation Report (Report) is to (1) evaluate the effectiveness of UH, specifically OMKM’s, implementation of the specific Management Component Plans (MCP) found in Section 7 of the CMP, and (2) to evaluate the efficiency of the governance structure in managing the cultural and natural resources within state conservation lands under lease to UH.”

The Independent Evaluation offers the following conclusions:

- i. “UH’s self-assessment and many of the public comments which included members of the Native Hawaiian community and government agencies, have acknowledged that OMKM has implemented most of the 103 MAs within the MCPs. Many have commented that OMKM has effectively implemented many of the MAs that have resulted in protecting and preserving the cultural and natural resources within the state conservation lands.”
- ii. “[I]n the areas of untimely adoption of the administrative rules, cultural resources, and education and community outreach, especially with the Native Hawaiian stakeholders, the efforts by OMKM have been ineffective to achieve the desired outcome.”

It is important to note regarding the above conclusions that:

- i. At the time of the Independent Evaluation, HAR chapter 20-26 was adopted by BOR and approved by the governor. The University is currently implementing the rules. Before BOR adopted the rules (which it was granted authority to adopt in 2009 under Act 132), the University was continuously implementing the 103 CMP management actions, administering commercial tour operator permits, and coordinating on enforcement related to resources and public health and safety with entities like DLNR and its various programs² and county first responders.
- ii. Outreach to the Hawai’i Island community, including native Hawaiians, has been a mainstay of University management on Maunakea, and it is built into its management framework. This includes outreach through advisory groups like KKM³ and the MKMB⁴ as well as local schools, community groups, businesses, native Hawaiian faculty, lineal descendants, and those who identify as *kia’i*. The recent adoption of HAR chapter 20-26 and the on-going work finalizing the new master plan include significant efforts by the University to capture community input, resulting in thousands of comments and dozens of meetings with interested groups. All substantive comments were considered, which the University has documented in its rulemaking process and the new master plan Volume II.
- iii. There has always been an education component for the public and community outreach conducted by the University and directly by the Maunakea observatories. The University’s recent reorganization furthers this work by designating the ‘Imiloa Astronomy Center for orientation programs and educational partnerships by BOR resolution and executive policy.

The Independent Evaluation ***did not conclude that UH has “mismanaged” Maunakea***, a term often used against the University. Here is how the Independent Evaluation discusses “mismanagement”, only once and quoted in full:

“The public’s assessment of how effectively UH has implemented the CMP has primarily varied depending on whether they are in favor or opposition of

² For example the State Historic Preservation Division, Division of Conservation and Resources Enforcement, Division of Forestry and Wildlife, Office of Conservation and Coastal Lands, etc.

³ Comprised of individuals knowledgeable about native Hawaiian cultural practices who advise the MKMB.

⁴ Composed of members representing the major stakeholders of Maunakea; primary role is to advise the Office of the Chancellor at the University of Hawai’i at Hilo on management of the Mauna Kea Science Reserve.

*telescope development on Mauna Kea. Those who support existing and future telescope development on Mauna Kea believe that OMKM has adequately implemented the CMP MAs to preserve and protect the cultural and natural resources on Mauna Kea. **For those who do not support continued telescope development on Mauna Kea beyond 2033, the expiration of the existing state lease, they believe that UH continues to mismanage Mauna Kea as concluded in the 1998 State Auditor's Report.** In particular, those in opposition believe that UH continues to advocate telescope development over the protection and preservation of the resources.*

With respect to the broader public comments on the effectiveness of the UH governance structure, most see UH as one entity. They either believe that the UH existing structure is doing a good job, or they believe that UH is mismanaging Mauna Kea and there is very little in between.

(Emphasis added.)

It should be noted that the University's newly issued draft Master Plan establishes a limit of nine telescopes post 2033. It also restricts future development to existing observatory sites. The University committed to these limits despite considerable differences with astronomy advocates.

C. The University and its advisory groups take constructive criticism seriously.

At the direction of the BOR, in April 2020, the University completed an analysis of alternative governance models that included models in which the University did not serve as primary manager. The analysis evaluated the benefits and challenges of establishing the various forms of new entities identified (see [BOR Presentation \[4.16.20\]](#)). In the University's analysis of governance models, the University concluded that three (3) years is not sufficient time to transfer legal rights under existing agreements, staff, resources, programs, plans, policies, and other elements of the University management program and apparatus to a new, yet-to-be-formed entity. Given the need for bicameral legislative support and based on past legislative efforts, the University determined it would take several years for the enabling legislation to be passed to form the new entity. This short timeline also does not account for the approvals required for a new master plan, management plan, permits, administrative rules, general lease, and observatory subleases, and for developing a viable business plan that ensures the new entity's sustainability.

As a result, the University has focused its attention on the governance alternative within its control and broadened community representation within its existing advisory groups. In 2021, the EC increased its membership, bringing different expertise and perspectives to its committee. KKM updated its purpose statement and is actively recruiting new members to reflect their renewed vision. The voices on the EC and KKM are diverse and include members who share some of the views of Hawai'i Island *kia'i*.

At their December 7, 2021 public meeting, the MKMB passed a motion recommending that the University administration restructure MKMB along the lines of what was identified as Model 4A, Collaborative Management with UH, in the University's analysis of governance models. Model 4A expands the current MKMB from seven to nine members; designates ex-officio seats on the MKMB for DLNR, DHHL, OHA, and the

County of Hawai'i; and redistributes representation of the remaining seats to include various stakeholder interests.

In many ways, the MKWG's recommended structure parallels what the University is in the process of implementing except that the University and astronomy are represented.

D. Tangible demonstration of the University's commitment to stewardship

Annual operating costs for stewardship alone are \$12M, the majority of which is covered by extramural and non-general funds generated by the University. In addition, the University provides world-class global network connectivity for all Maunakea Observatories so that the data collected on the mountain can be shared with researchers and students at institutions around the world. Under the new management regime being recommended, absent other sources of revenue because of the uncertainty created about future access and use, a substantial investment by the State will be required to support a new stewardship program that would have jurisdiction for significantly more land than the current program.

The fruits of the University's efforts to improve its stewardship have been recognized by the community. In 2017 UH received the Pualu Award from the Kona-Kohala Chamber of Commerce for its education and outreach. In 2017 UH received a Preservation Commendation Award from the Historic Hawai'i Foundation for its interpretative efforts. And in 2016 UH received the Pualu Award for Environmental Awareness from the Kona-Kohala Chamber of Commerce. Finally, and perhaps most notably, in 2011 the Wekiu Bug was removed from endangered species candidate list because of the University's ecosystem restoration efforts.

In closing, the University should be judged by our complete record which shows substantial improvement over time across multiple dimensions. Our commitment has been reliably demonstrated in time, effort, and resources committed by us over the years in the exercise of our stewardship responsibilities for the privilege of access we have. And as a result, as reported by many in the Independent Evaluation **"...the cultural and natural resources on the state conservation lands on Mauna Kea are some of the best managed and protected lands in the entire State"** and we have a world class research enterprise Hawai'i can be proud of.

HB-2024

Submitted on: 2/17/2022 1:45:08 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Shoyo Tsukamoto	Hawaiian Eyes Tour	Oppose	Yes

Comments:

Testimony in Opposition to HB 2024 Maunakea Authority

Ms.

Address

Dear Representatives:

Please accept this testimony in opposition concerning HB 2024 establishing the Maunakea Stewardship Authority.

My name is Shoyo Tsukamoto. I work for small company in Kailua Kona and am writing in opposition to House Bill 2024. My company provides direct service to companies who take visitors on Mauna Kea. Prohibiting commercial activity on Mauna Kea would have a huge financial impact on my business, causing me to re-organize, refinance or close down depending on my ability to replace that segment of my business.

Please consider the financial implications and trickle down impact your actions will have on small businesses who are reliable suppliers and the backbone of the visitor industry. We are dependent upon this business to put food on our tables, pay our rent and take care of our children.

Sincerely,



To:

Representative David Tarnas, Chair
Representative Patrick Pihana Branco, Vice Chair
Committee on Water & Land

Representative Mark Nakashima, Chair
Representative Scot Matayoshi, Vice Chair
Committee on Judiciary & Hawaiian Affairs

Representative Sylvia Luke, Chair
Representative Kyle Yamashita, Vice Chair
Committee on Finance

From: Maunakea Observatories

Subj: HB 2024 Relating to Mauna Kea – Comments

February 19, 2022; 9:00 a.m.; Via Videoconference

Aloha Chairs Tarnas, Nakashima and Luke, Vice Chairs Branco, Matayoshi and Yamashita, and members of the committees:

The undersigned Maunakea Observatories (MKO) directors appreciate this opportunity to offer comments on HB 2024 that establishes a Maunakea stewardship authority.

The essential need for MKO is to secure new land authorizations for the observatories reflecting a long-term commitment by the State of Hawai'i to astronomy which allows us to pursue our missions of scientific discovery on Maunakea beyond the current master and subleases that end in 2033.

The Maunakea Observatories are a collaboration of nonprofit, independent institutions supported by numerous national and international partners and research institutions. Securing new land authorizations gives our partners the confidence to continue funding astronomy in Hawai'i. These funders have injected billions of dollars in Hawai'i over the 50+ year history of MKO. And today, astronomy has a total economic impact to the state of approximately \$220M annually, and provides significant STEM education and workforce development opportunities.

Facility upgrades, investments in new instrumentation and long-term operations planning critically depend on a clear and timely path to a new land authorization.

If the state decides to transfer governance and management control to a new stewardship authority, we urge sufficient time be included for establishing new management plans which require careful thought by multiple stakeholders about complex issues. HB 2024 establishes the framework, but the time to work out the details that serve the mutual best interests of the stakeholders must not be shortchanged. There must also be a careful, transparent process for an orderly transition to the new authority so that our current operations are not subject to undue disruption and our future land

authorizations are not subject to risk and uncertainty that would undermine the confidence of our partners, staff and community.

Whichever entity the state chooses to govern and manage Maunakea beyond the current lease, here is MKO's position:

We will join other stakeholders in the financial support of management and stewardship. We need assurance that the MKOs share will be fair, feasible and financially sustainable.

Astronomy representation in governance and management is essential to assure good decision-making requiring deep knowledge and strategic consideration of astronomy-related issues. In the case of the structure proposed in HB 2024, we firmly believe there should be an Astronomy representative on the governing board.

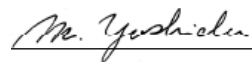
We strongly support Native Hawaiian and local community involvement in governance and management to ensure the mutual interests of MKO, the community, and the state of Hawai'i are met.

Thank you for your consideration of our comments and we welcome the opportunity to work with you on this important issue.

Mahalo,



Director Hilton Lewis, W. M. Keck Observatory (Keck I and Keck II)



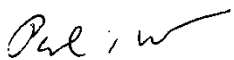
Director Michitoshi Yoshida, Subaru Telescope



Interim Director Andy Sheinis, Canada-France-Hawaii Telescope



Director John Rayner, NASA Infrared Telescope Facility



Director General Paul Ho, East Asian Observatory

HB-2024

Submitted on: 2/17/2022 8:32:14 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jacqui Hoover	Hawaii Leeward Planning Conference	Oppose	No

Comments:

Incorporated in 1974, Hawaii Leeward Planning Conference (HLPC) is a private member-based 501(c)3 that works with both public and private sectors to advocate for sound planning decisions for the Island of Hawaii. HLPC has worked closely with the University of Hawaii and the community as it developed its updated management plan, supports the UH continuing its management role, and does not support HB2024 or creation of a new management authority for Mauna Kea.

HB-2024

Submitted on: 2/17/2022 8:55:04 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jacqui Hoover	Hawaii Island Economic Development Board	Oppose	No

Comments:

Earlier this month the University of Hawaii Economic Research Organization (UHERO) released its updated report on the Economic Impact of Astronomy in Hawaii in which the industry's total economic impact of \$221 million in 2019 was revealed, Moreover, 611 jobs on Hawaii Island alone are directly tied to the astronomy sector.

From the economic perspective alone, the Hawaii Island Economic Development Board (HIEDB) finds the premise of HB 2024 to be fundamentally flawed.

HIEDB strongly supports retaining the University of Hawaii in its management role for Mauna Kea and strongly opposes HB 2024 and its ill-conceived proposal to establish a new management authority.

In closing, please note that I find it particularly egregious that a hearing on a subject of this import is scheduled to be held on Saturday of a three-day weekend all but ensuring that multiple voices and stakeholders whether in support or opposition, will not be heard.

February 17, 2022

Re: Opposition to House Bill 2024 Relating to Mauna Kea.

Dear Chair Tarnas and the House Committee on Water & Land, Chair Nakashima and the House Committee on Judiciary & Hawaiian Affairs, and Chair Luke and the House Committee on Finance,

The Kona-Kohala Chamber of Commerce strives to enhance the quality of life for our community through a strong, sustainable economy on Hawai'i Island. With 430 member businesses and organizations, we exist to provide leadership and advocacy for a successful business environment in West Hawai'i.

The Kona-Kohala Chamber strongly supports astronomy on Maunakea noting significant scientific discovery, global leadership, educational outreach, workforce pipelines, jobs and economic impact. We believe the University of Hawai'i is by far the best option for a management structure on Maunakea and the lease renewal of 2033 is an urgent matter. We support the recently approved Master Plan for the UH Maunakea Lands along with the Comprehensive Management Plan. UH understands that it must protect Maunakea's value as a culturally significant landscape as well as a premier location for astronomy. With entities in place such as the Center for Maunakea Stewardship, 'Imiloa Astronomy Center and the Institute for Astronomy, the University of Hawai'i has broad resources, vast knowledge and a steadfast commitment to provide the best possible management under very complex circumstances.

We recognize the cultural expertise and thoughtful presentation of the Mauna Kea Working Group report (House Resolution 33) that provided recommendations that formed the basis of House Bill 2024. However, the Kona-Kohala Chamber of Commerce **opposes House Bill 2024**. Despite our objection, we thank all those who participated in the Mauna Kea Working Group.

Many aspects of HB 2024 **don't align** with our positions. This includes:

- Establishing the Mauna Kea stewardship authority as the sole authority for the management of state-managed lands on Maunakea.
- Voiding all rules pertaining to Maunakea lands established by the University of Hawai'i.
- Establishing a plan to return the mauna above the 9,200' elevation to its natural state.
- Prohibiting commercial use and activities above Hale Pōhaku and adopt rules to designate areas for permissible use.

We ask that legislators please consider the immense impacts of HB 2024 and oppose this measure at this time.

Sincerely,



Wendy J. Laros, President and CEO
Kona-Kohala Chamber of Commerce



Aloha members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance,

Mahalo for the opportunity to provide written testimony in **SUPPORT** of **HB2024**. The proper stewardship of Mauna a Wākea has long been debated with numerous Kanaka Maoli (Native Hawaiian), environmental and community groups raising concerns over the decades.

Mauna a Wākea is the highest form of land in Hawai‘i. It is a sacred area, what we call wahi pana. For kanaka maoli, it is one of the wahi pana with the highest form of spirituality that connects us to our deities and ancestors. Hui Maui Ola is in support of the HB2024 bill to establish the Mauna Kea stewardship authority as the sole authority for management of state-managed lands on Mauna Kea. We support having a bill that would better manage Mauna a Wākea which includes our Kanaka Maoli communities’ voices and involvement.

While the current management can’t respect our Maoli culture and community when it comes to one of our most spiritual wahi pana throughout the many years of responses, we can expect our spiritual practices such as lomilomi, lā‘au lapa‘au, ho‘oponopono, and the many other traditional Maoli healing practices that are heavily spiritual to be treated just as the same by the current management, the University of Hawai‘i, TMT, and all of their affiliates. Our culture is spiritual. Kanaka Maoli are spiritual. Without Kanaka Maoli, Hawai‘i isn’t truly Hawai‘i. If the current management can’t take care of one of the highest areas of spirituality to Kanaka Maoli, the home of our goddess, the land that is elevated the closest to our ancestors, then what do they actually care about? We want management in place that would respect, preserve, perpetuate, conserve, care about our Kanaka Maoli spiritualities and all that is affiliated with it..

As supporters of a healthy and protected Mauna a Wākea, we strongly urge you to pass HB2024 with the following amendments:

- Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report Ho‘okikī Kānāwai, Kua‘ā Kānāwai, Kai‘okia Kānāwai, Kīho‘iho‘i Kānāwai;
- Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group’s Report; and
- Add language that would require the University of Hawai‘i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

In conclusion, the leadership of the House of Representatives declared a bold commitment to take steps towards economic, cultural and environmental justice. Your support of HB2024 will make good on your commitments to your constituents, and Hawai‘i’s precious natural and cultural resources.

Kainoa Keanaaina
Executive Director, Hui Maui Ola



PROTECTING

NATIVE HAWAIIAN

CUSTOMARY &

TRADITIONAL RIGHTS AND

OUR FRAGILE

ENVIRONMENT

Mailing Address
P.O. Box 37368
Honolulu, HI 96837

toll-free phone/fax
877.585.2432

www.KAHEA.org
kahea-alliance@hawaii.rr.com

KAHEA: the Hawaiian-Environmental Alliance is a non-profit 501(c)3 working to protect the unique natural and cultural resources of the Hawaiian islands. KAHEA translates to English as "the call."

February 16, 2022

To: State of Hawai'i House of Representatives, Committee on Water & Land, Committee on Judiciary & Hawaiian Affairs, and Committee on Finance, February 19, 2022 Hearing, Conference Room 430 (VIA VIDEOCONFERENCE)

Testimony of KAHEA: The Hawaiian-Environmental Alliance in OPPOSITION to HB2024, Relating to Mauna Kea

KAHEA: The Hawaiian-Environmental Alliance, a 501(c)(3) nonprofit organization strongly opposes HB2024, which seeks to implement recommendations from the Mauna Kea Working Group's (Working Group) Draft Report, "He Lā Hou Kēia Ma Mauna a Wākea: A New Day on Mauna A Wakea," dated December 17, 2021 (draft report). Our opposition is based on the flaws in the draft report KAHEA earlier noted in our comment to the working group, dated January 2, 2022.

KAHEA is a community-based organization working to improve the quality of life for Hawaii's people and future generations through the revitalization and protection of Hawaii's unique natural and cultural resources. We have been advocating for the protection of Mauna Kea for nearly the entire life of our organization, which was founded in 2000.

1. Resolution cannot be found in a Governor-appointed Entity

The Draft Report recognized existing management practices do not ensure the observatories: (1) plan for and finance decommissioning and restoration; (2) are held to appropriate standards of "restoration"; and (3) contribute to decommissioning funds. Draft report at 26. The Draft Report also, helpfully, recommended development of "a plan to return the mauna above 9,200 feet elevation to its natural state." *Id.* at 25. The Draft Report, however, unilaterally entrusted a new Governing Entity to ensure these are implemented in a timely and meaningful way. This is a mistake as described *infra* Part 3.

2. Foundational concepts of the Kumu Kānāwai that were referenced throughout the Working Group Report are not included in the HB2024 language.

One of our earlier criticisms of the Working Group Report was that it included no framework to actually implement the Kumu Kānāwai, and in this bill, it has been completely removed. This bill should not move forward without meaningful inclusion of the Kumu Kānāwai. The Draft Report described traditional kānāwai, including Kai'okia Kānāwai, under which natural boundaries dictated traditions, such that "land deemed safe for residential and commercial activity were zoned as wao kanaka, where man

could live and work. Other lands were set aside and zoned as wao akua, where human activity was kept to a minimum, either for safety from elemental activity or to keep the area pristine to maintain our natural resources.” Draft report at 5. Hawaiian practices as dictated by traditional Kānāwai include: “The height of the mauna sits at an atmospheric level that prohibits occupation. The top is revered and should be treated with utmost reverence. It is the makahiapo or the oldest child and is ‘kapu’; therefore, prohibited for occupation.” Draft report at 14.

These traditional laws prohibit industrial development on Mauna Kea, including existing development. Yet, these traditional kānāwai are only “intended to guide and inform how the [Governing] entity designs and implements its governance and management frameworks; and performs its day to day operations by recentering permissible human use and access activities towards the overall, cumulative health and resilience of Mauna a Wākea.” Draft report at 12.

The problem has never been a lack of brilliance or deep knowledge of Hawaiian practitioners as is expressed in the kānāwai shared in the report. The problem has always been the failure of the University and State to relinquish their control over the management of Mauna Kea and their refusal to allow those most knowledgeable to apply that knowledge to the care and protection of this sacred place. Western laws are open to a certain width of interpretation, safeguarded by checks and balances of the coordinate governing branches. Guidance and information have larger spheres of interpretation and lack assurances that they will be implemented. The Working Group’s report failed to demand compliance with traditional kānāwai - no further development on Mauna Kea.

3. Governor’s power to appoint nearly all the members of the Governing Entity

Several years ago in 2018, the senate introduced SB3090, which would have removed UH from its management role over Mauna Kea and installed a governor-appointed management authority in its stead. Legislators introduced the bill after promising community groups that they would not do so. KAHEA joined the calls of caution from community leaders - that UH’s dismal management record should not be a reason to repeat a wrong-headed approach directed at “resolving conflict”. Conflict isn’t the problem. The problem is over-development on the mauna.

Like the SB3090 Management Authority, the Working Group set forth parameters for a “Governing Entity,” comprised of nine members, all but one (the OHA CEO) of whom are appointed by the governor. Draft report at 23. The Governing Entity would be the “sole authority” over management of “state-owned lands above the 6,500 foot elevation line, inclusive of Pu’u Huluhulu to the summit of Mauna a Wākea.” *Id.* at 21, 24.

Like the SB3090 Management Authority, this Governing Entity removes protective procedures that are currently in place and could themselves use strengthening. It would provide one-stop shopping for project design review, leasing, conservation district use permitting, environmental impact statement approvals, and any historic preservation or burial treatment impacts review. Instead of the more protective serialized system of approvals from different entities - BLNR, SHPD, DOFAW, Burial Councils, and other agencies - development applicants need only turn to the Governing Entity. Facilitating development on Mauna Kea is the *opposite* lesson that we should have learned from litigation and contested case hearings on the Thirty Meter Telescope.

More importantly, HB2024 purports to present a preformed template and asks the community to trust you to fill in details. Management and governance of Mauna Kea must proceed from a truly community-based process that builds trust amongst people who have shown their commitment to protecting the mauna, which includes many more than those who served on the Working Group. Build that trust by empowering longtime Mauna Kea protectors from the Royal Order of Kamehameha, Sierra Club of Hawai'i, Hawaiian charter schools, Mauna Kea Anaina Hou to select Governing Entity members and without requiring the governor's appointment.

4. Astronomy industry should not be part of the Governing Entity

While we oppose HB2024, should it go forward, we ask the House not amend the bill to allow the astronomy industry to be afforded a seat. We strongly oppose this recommendation as the goals and interests of the astronomy industry have been overrepresented on Mauna Kea for the last 50+ years which has caused, "significant, substantial, and adverse harm" to cultural resources. (2005 NASA federal EIS on the Keck Outrigger project) Western astronomy now dominates the summit of Mauna Kea and need not further impose its priorities on this sacred landscape. We hope that the Working Group deeply revises its recommendations to include: (1) significant, meaningful, and broad-based community input prior to the introduction of any legislation; (2) removing the governor's power of appointment of nearly all the members of the Governing Entity; and, (3) honoring the traditional Kānāwai by, first and foremost, prohibiting any further construction – including the Thirty-Meter Telescope – on Mauna Kea.

Me ke aloha,

KAHEA Board and Staff 2022



Aloha Chairs Tarnas, Nakashima, Luke, Vice Chairs Branco, Matayoshi, Yamashita, and members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

We are writing today to testify AGAINST HB208/24.

Imua TMT commends the Mauna Kea Working Group and Speaker Saiki for continuing dialogue on the important issue of managing Mauna Kea. The group was given an impossible task - finding an alternative governing model for Mauna Kea that satisfies the TMT protesters and the rest of the State of Hawaii. The reality is that UH's management of Mauna Kea has been excellent and the major management failure of late has been the State's failure to enforce the law and arrest protesters unlawfully blockading the Mauna Kea Access Road to prevent the construction of the amazing Thirty Meter Telescope project. The creation of any new governing entity will merely serve to delay TMT and the renewal of the lease that governs the telescopes which expires in 2033. This is, of course, the protesters' objective, but it should not be the State of Hawaii's. We believe this new governance model proposal should be abandoned in favor of continuing UH's management under UH's new proposed plan and structure. Please do not pass this bill out of your committees.

To the extent this effort continues on, we have the following comments on HB2024:

1. The legislation currently proposes excluding the astronomy industry from having a seat on the board of the new proposed Mauna Kea management entity. The telescopes on Mauna Kea and the University of Hawaii maintain the access road and provide billions of dollars in investment and jobs to our economy. At a minimum the astronomy industry deserves a seat on the board tasked with management of Mauna Kea, either through the Mauna Kea Observatories group or the University of Hawaii, if not both.
2. Section 6 currently states that the authority shall establish a plan for eliminating astronomy on Mauna Kea. Astronomy on Mauna Kea provides unique educational opportunities, valuable high skill internships, and quality employment opportunities for the next generation of Hawaii. Eliminating astronomy would be a harsh setback for our children and is not acceptable.
3. The legislation should include amendments to criminal statutes to allow for harsher punishments and quicker enforcement for blocking of public roadways. We do not want to end up like Canada.
4. All implication that Mauna Kea is "sacred" to all Native Hawaiians should be removed. Mauna Kea is not sacred as a Native Hawaiian matter, as you can read about here: <https://tinyurl.com/Hawaiians4TMT> (also attached). While some people might maintain beliefs in the kapu religion, and as part of their belief think Mauna Kea is sacred, their beliefs are not authoritative as a Native Hawaiian matter. Our ali'i abolished the kapu religion over 200 years ago and our constitution prohibits the



government from establishing a religion. Thus, any mentions of sacredness must explain this nuance and explain that there are also Native Hawaiians who do not think Mauna Kea is sacred, or who think its sacredness is enhanced by the use of Mauna Kea for astronomy.

Mahalo nui loa,

Samuel Wilder King II

Tyler Trent

Mailani Neal

Board of Directors

Imua TMT

www.imuaTMT.org



"I believe totally in getting the new telescope built on Mauna Kea. Our ancestors studied the heavens. Now a new generation of Hawaiians

can have the opportunity to advance what they discovered. A telescope that can accomplish this maintains the sacredness of the mountain. With this and in other ways, we need to be open to the future to carry us forward to the many tomorrows yet to come."

– **Leimomi o Kamehae Kuamo'o Mo'okini Lum**

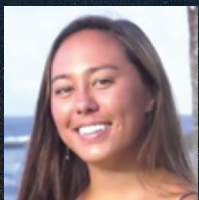
The Kahuna of Mo'okini Heeiau



"The historic legacy of Mauna Kea must continue its contribution to scientific knowledge."

– **Judge Walter Mehula Heen**

First Director of the Office of Mauna Kea Management; former OHA Trustee



"I'm very proud to identify myself as a Native Hawaiian. At the same time, I'm also a scientist, I'm an astronomer and I believe that these two aspects

of me can coexist. And I believe that astronomy and the culture can coexist on Mauna Kea."

– **Mailani Neal**

Native Hawaiian Astronomy Student; founder of We Support TMT petition



"As a Native Hawaiian, I believe Mauna Kea is a deeply spiritual place. We just need to have the collective will to share the Mauna."

– **Kalepa Baybayan**

Master Navigator and Captain



IMUA TMT

Imua TMT supports having the Thirty Meter Telescope in Hawai'i on Mauna Kea.



Many questions and concerns were raised about TMT and unfortunately, rumors and misinformation are also circulating. Imua TMT wants you to know the facts.

Imua TMT is a Native Hawaiian-led community organization advocating for the construction of the Thirty Meter Telescope on Mauna Kea. If you wish to hear from Native Hawaiian supporters of TMT, please email Imua TMT at imuaTMT@gmail.com and we will be happy to arrange a Zoom discussion.





"We support astronomy in Hawai'i as a clean, sustainable industry. The best astronomy on the planet is from Mauna Kea. Astronomy is a

part of our stargazing, navigating heritage throughout Polynesia."

– **Malia Martin**
Founder, Imua TMT



"I think telescopes maintain the sanctity of the mauna, worshipping the sky through observation and servicing a goal of bringing

humankind closer to understanding creation of life in the universe. It isn't traditional but neither were the ahu erected on the mauna, which didn't diminish their sanctity to those who built it. It isn't Hawaiians versus desecration. It isn't a war on culture and science. It isn't an issue where only Native Hawaiians get to have a say because we are no longer the only ones who live here."

– **Kauionalani Onodera**
Mechanical Engineer



"I am in support of TMT and I can't wait to take my kids up there to look at the stars."

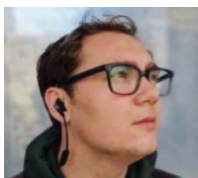
– **Ikaika Kamaiopili**
Native Hawaiian TMT Supporter



"I see Mauna Kea as a special place that allows us to understand and study our origins. As one's origin and genealogy are critical aspects

of Hawaiian culture, I view the pursuit of astronomy on Mauna Kea to be a beautiful blend of culture and science."

– **Heather Kaluna**
Astronomer, UH



"He kanaka 'ōiwi au ā me kāko'o au i ka 'ohe nānā kanakolu mika. I am a Native Hawaiian and I support the TMT."

– **Naea Stevens**
Native Hawaiian

How Hawai'i Benefits from TMT

■ **Educating Hawai'i's Keiki** – TMT launched The Hawai'i Island New Knowledge (THINK) Fund in 2014 to better prepare Hawai'i Island students to master STEM and to become the workforce for higher paying science and technology jobs in Hawai'i's 21st century economy. For the past five years TMT has made an annual contribution of \$1 million to the Fund. To date, through the Hawai'i Community Foundation and Pauahi Foundation, TMT has provided over \$5.5 million for Hawai'i Island students, their families and teachers.

■ **Paying Rent** – Since 2014 TMT has paid \$300,000 in lease rent. This will increase throughout construction to \$600,000 when the structure is built, \$700,000 when the instruments and mirrors are placed, and \$900,000 in the 10th year of construction. After that, TMT will pay \$1 million a year for the 50 years the telescope is in operation.

\$800,000 of TMT's \$1,000,000 annual rent will go directly to the Office of Mauna Kea Management, which is responsible for enforcing the telescopes' leases, protecting Mauna Kea's environment, and preserving cultural sites.

■ **Native Hawaiian Programs** – 20% of TMT's annual \$1M lease rent will go to the Office of Hawaiian Affairs for the benefit of the native Hawaiian population it serves. \$250,000 of TMT's \$1M annual contributions to the THINK fund goes to the Pauahi Foundation, which provides college scholarships exclusively for Native Hawaiian students.

■ **Diversify the Economy** – TMT will bring hundreds of millions of dollars in construction revenue for Hawai'i-based companies. TMT will create 300 union construction jobs. TMT will allow the University of Hawai'i to attract billions of research dollars. TMT will revitalize the astronomy sector, ensuring future large-scale diversification of our economy.

■ **Long-Term Jobs on Hawai'i Island** – once completed, TMT will expend about \$40 million annually in observatory operations and employ about 140 employees. TMT's commitment is to fill these positions with as many Hawai'i residents as possible.

TMT will continue funding the seven-year-old Workforce Pipeline Program, and increase the funding to \$1 million dollars per year. This will continue the programs that will lead to a highly qualified pool of local workers.

■ **Scientific Research and Discoveries** – TMT will add to the best astronomical research in the world that is happening on Mauna Kea, cementing Hawai'i's reputation as the international leader in astronomical science. The University of Hawai'i's nationally recognized Institute for Astronomy will also benefit from the important infrastructure TMT will provide to enhance students' learning by studying the universe.

■ **TMT Support During COVID-19** – TMT donated \$100,000 to the The Food Basket – Hawai'i Island's food bank during COVID-19 lockdowns. TMT provided \$50,000 for an on-line STEM program in collaboration with Hawai'i Science and Technology Museum which launched at Hilo Intermediate School in June. TMT's Hawai'i staff have been sewing masks and donating them to an on-island foster children program!

RUMOR

REALITY

Mauna Kea is sacred to all Native Hawaiians

Any claim that Mauna Kea as a whole was sacred to Native Hawaiians was extinguished, as a Hawaiian matter, 200 years ago when Mo'i Liholiho aka Kamehameha II proclaimed "Ai noa", free eating, and broke the centuries old 'ai kapu by eating with his mother Keopuolani and Kuhina nui, Ka'ahumanu. Liholiho and his Kahuna Nui Hewahewa ordered the destruction of the kapu religion and its shrines. Liholiho then defeated the last adherents to the Kapu system at the Battle of Kuamo'o in 1819, ending once and for all any claims of special political status for the Kapu religion as a Hawaiian matter.

Furthermore, as explained by Kahuna Leimomi Lum, a telescope that can advance the celestial studies of our ancestors maintains the sacredness of Mauna Kea, even as a matter of Kapu doctrine.

Finally, there is actually no documented evidence that Mauna Kea was particularly sacred to Native Hawaiians in a way that prohibited digging on the summit or any use at all. Indeed, our ancestors mined rock out of Mauna Kea in an area 100 times the size of the TMT site.

TMT development plan does not respect Hawaiian cultural practices.

TMT site and its vicinity were not used for traditional and customary native Hawaiian practices conducted elsewhere on Mauna Kea, such as depositing piko, quarrying rock for adzes or gathering water from Lake Waiau.

The TMT site is not on the summit ridge which is arguably more important culturally than the plateau 500 feet lower where TMT will be built.

TMT's management plan for Mauna Kea specifically provides for cultural, ceremonial or religious activity.

TMT will block views from the summit ridge of the rising sun, setting sun, or Haleakalā.

One of the reasons for the choice of the TMT site was the fact that it cannot be seen from the actual summit or from Lake Waiau or Pu'u Lili'noe. The view of TMT from the summit is blocked by the northern ridge of Kukahau'ula. Where it would be visible, other large telescopes are already in view.

Contaminants from TMT — whether from construction or the observatory itself — will leach into the island's groundwater.

Hydrologists, both independent and paid to work on the EIS, have determined there is no reasonable prospect of adverse impact on groundwater. TMT will install a zero-discharge wastewater system, with all wastewater collected and transported off the mountain in double-lined tankers for proper treatment and disposal. The closest drinking water wells, at Waiki'i, are 12 miles away and those in Waimea, Hamakua, and Hilo are an even greater distance from the Mauna Kea summit area. The best hydrological data we have indicates that, even if contaminants were released in the summit region, it would take several thousand years to reach any existing drinking water well on Mauna Kea's flanks — a time much longer than natural degradation processes would require to completely break down any potential contaminants.

Hawaiians have not been heard regarding TMT.

There has been over a decade of litigation; two contested case hearings, the second of which lasted 44 days and heard from 71 witnesses; and an entire volume of the 3-volume EIS included letters and other input from many of the opponents (as well as supporters) of TMT. The truth is when pro-TMT Hawaiians speak up they are shouted down by the loud, vocal, minority protesting the telescope.

Mauna Kea is Crown Land therefore descendants living today own the mountain.

The last sovereign, Queen Lili'uokalani, placed all of her property in a charitable trust for the benefit of orphan and indigent Hawaiian children known as the, Queen Lili'uokalani Trust. She herself had no descendants.

It would be better to build TMT in place of one of the existing observatories.

The decision was made specifically to not place the TMT at the site of one of the existing summit ridge facilities. The reason was that doing so would require a large amount of grading, most of it in wekiu habitat, and because the visual impact would be much greater.

Dynamite will be used to prepare the TMT site for construction and TMT will be nuclear powered.

No dynamite will be used in the construction of TMT and TMT will not be nuclear powered. It will draw electricity from the Big Island's grid.

There remain culturally significant architectural sites or protected species at the TMT location.

Extensive environmental impact studies have identified no such areas on the five-acre site. The nearest site of cultural significance is located 200 yards away from the TMT location. Similarly, the wekiu bug — an insect endemic to the region that was once considered threatened (but is no longer) — nests in cinder cones that are not close to the TMT site and, other than on a small portion of the access road, will not be disturbed during construction.



"I'm a Hawaiian, and I fully understand the cultural and environmental effects TMT may have on Mauna Kea. But I also believe

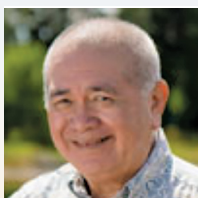
that the scientific, financial, educational, and economic benefits that come with TMT will make vast improvements on the Big Island. Hawai'i can be the front runner for astronomy, something our ancestors always believe in. Imua TMT."

– **Bernard-Benjamin Villa**
UH Hilo, Performing Arts



"If Kamehameha I was ruling Mauna Kea today, he would build a heiau (temple) platform and mount the TMT on it."

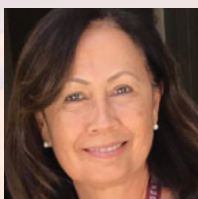
– **Peter Apo**
Former Trustee, Office of Hawaiian Affairs



"The TMT is made up of the Pacific Rim nations of Canada, the US, Japan, India, and China. What better purpose can we aspire to than cooperation among

nations, rather than war? And what better place for cooperation than on Mauna Kea, in Hawai'i, the land of Aloha?"

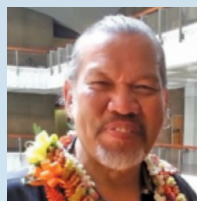
– **Richard Ha**
Hawaiian Businessman



"As a resident of Hawai'i island, and a Native Hawaiian, I believe that our Island provides a living laboratory for science. From mauka to makai

we can access astronomy, volcanology, geology, and marine sciences. We need to be leaders in melding science and culture because as we already know, the Hawaiians had a strong and prospering society before western contact. Science can learn from us, and while we cannot go back, we can move forward together! Just as Hokulea relied on both traditional navigation supported by the instruments of their escort vessel, we need to find a way to embrace each other and become leaders for the world."

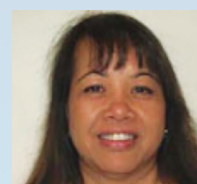
– **Angela Thomas**
Educator from Waimea



"The TMT project is like a search for the aumakua or ancestral origins of the universe. How is this any different from us as Native Hawaiians

searching for own roots in things both natural and spiritual?"

– **Wallace Ishibashi**
Senior Advisor, OMKM



"I am proud that my lineage includes both Native Hawaiian and Native American plus other Polynesian, European, and

Asian ancestry. I am grateful to have been born and raised in Hawai'i with Hawaiian values, thought processes, and traditions. AND I support TMT which does not mean that as a Native Hawaiian, all is forgotten and forgiven."

– **Jacquie Hoover**
Executive Director of Hawaii Island
Economic Development Board



"The TMT is poised to make the most important discovery of all time: life on another planet. It'd be cool to give that planet a

Hawaiian name. A name that will spread the Hawaiian language to every corner of the globe and into perpetuity."

– **Chris King**
Computer Engineer



"The reason we support TMT is because we believe it is being done the right way. We really need these STEM jobs and Hawai'i Island is so limited.

We told them that we needed more funding for STEM education to pay their fair share of rent and they listened. They followed through."

– **Amber Imai-Hong**
Hawai'i Space Flight Laboratory



"I am a proud Hawaiian, I have true Aloha for our people of Hawai'i and the 'Aina. At the same time, I believe our world is ever changing, and

so must we. I believe in the importance of education, knowledge, and cultivating a desire to learn in our Keiki. Years ago, we arrived to these great lands, guided by the stars. Let the heavens guide us now. I support TMT."

– **Melanie Long**
Hawai'i Business Owner

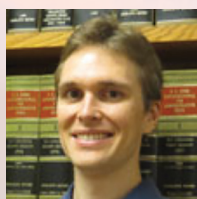
*"It will afford me
unfeigned satisfaction if
my kingdom can add its
quota toward the successful
accomplishment of the most
important astronomical
observation of the present
century and assist, however
humbly, the enlightened
nations of the earth in these
costly enterprises."*

– **King David Kalākaua**
on Hawai'i's role in the
observations of the Venus Transit
of December 8, 1874



imuatmt.org

<https://tinyurl.com/ImuaTMTpanels>



"TMT will bring millions of dollars in investments and jobs to Hawai'i, while simultaneously ensuring that Hawai'i, its people,

and our ideas remain at the forefront of human scientific endeavor."

– **Samuel W. King II**
Attorney

Aloha Chairs Tarnas, Nakashima, Luke, Vice Chairs Branco, Matayoshi, and members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance.

The 'Ai Noa Foundation is a Native Hawaiian Organization that was created to provide a voice for Native Hawaiians that are pro-secularism, pro-democracy, pro-equality before the law, and pro-American. Our board members are Samuel P. King, Jr., Sandra Burgess, and Samuel Wilder King II.

We submit our testimony today in strong opposition to HB2024. While we respect and appreciate the efforts of the members of this committee to try and placate the TMT protesters, the reality is that this is an impossible task. The protesters have no interest in reasonable discussions and all their efforts are geared toward a single goal: stopping construction of TMT. Every day TMT is delayed is considered a win by the protesters. There is no further reasonable accommodation to be made for the protesters. All of those were already made during the permitting process.

Suffice to say, we have also have the following specific concerns about HB2024:

1. This document is based on the final report of the Mauna Kea Working Group. That report was riddled with inaccuracies, the most glaring of which was its attempt to equate Hawaiian identity with belief in the Kapu religion of old. This legislation's legislative history, therefore, is tainted by an unconstitutional desire to combine church and state and to impose a state-backed neo-Kapuist religion on the people of Hawaii. The report ignores the Native Hawaiians who do not believe Mauna Kea is sacred, such as us, or [who believe the sacredness of Mauna Kea is enhanced by the use of the summit for high-tech astronomy](#). The report calls Mauna Kea "Mauna a Wakea". That term is inaccurate. Moreover, its use is justified in religious terms. In 1819 our ali'i abolished the Kapu system, in effect declaring that all Hawaiians have freedom of belief. [Every constitution laid down in this land since that date has promised freedom of belief and rejected the establishment of a state-backed religion](#).

2. HB2024 carries this same taint. HB2024 states that one of the new management entity's "guiding operational values and principles" will be "to perpetuate the Hawaiian cultural values embedded in the sacred landscape of the mauna". This statement is historically absurd and a violation of Native Hawaiian constitutional and human rights. As mentioned above, the Kapu religion was destroyed by [Kamehameha II after a civil war](#). Therefore, as a Hawaiian matter, Mauna Kea is not sacred. The Kapu religion no longer has the power to determine land uses in these islands. Second, this statement equates "Hawaiian values" with believing in the false sacredness of Mauna Kea. This violates article 18 of the [International Covenant on Civil and Political Rights](#), to which the United States is a party. It further violates, to the extent applicable, the [UN Declaration on the Rights of Indigenous Persons](#) (UNDRIP) article 8(1) against our forced assimilation to neo-Kapuist beliefs. It also violates UNDRIP article 15's guarantee to protect the diversity of our culture by attempting to shove all Hawaiians into a Kapuist box. This is to say nothing of the violation of the prohibition on the

establishment of a religion by the state in the Hawaiian Constitution Article 1 Section 4 and the First Amendment of the US Constitution.

3. HB2024 also violates non-discrimination laws by attempting to give racial preferences to Native Hawaiians to serve on the board. Since the very beginning of the Kingdom of Hawaii's dominion over these islands brought by Kamehameha I's conquest, these islands have been multi-cultural and multi-ethnic, [with non-Native Hawaiians such as John Young and Issac Davis serving at the very top of government](#). It is a violation of our cultural heritage of inclusivity to continue to try and force the people of Hawaii to sort by race.

4. This bill inexplicably gives special consultation rights to the Edith Kanaka`ole Foundation and the I Ola Hāloa Hawaiian studies program at Hawaii community college (which we suspect is heavily influenced if not controlled by the Edith Kanaka`ole Foundation). Again, to the extent applicable, this is direct violation of UNDRIP Article 19's requirement to obtain free and informed consent from our governing institutions. The 'Ai Noa Foundation demands that we also be consulted on anyone who will be appointed by OHA to this new management entity. Better yet, this requirement should simply be stricken. To the extent the Mauna Kea Working Group also tried to listen to a broad swath of Native Hawaiians, it failed utterly. It was dominated, from a Native Hawaiian point of view, by TMT protesters with a strict Kapuist viewpoint. Our views were either not represented or severely underrepresented. Our numerous comments and suggestions were clearly ignored.

5. This bill states that recreational users will be charged a fee to enjoy Mauna Kea. Given the religiosity of the bill, we assume religious users will not be considered recreational users. That is again a discriminatory act that violates the equality of religious and non-religious recreational activities.

6. The introduction of HB2024 states that "Mauna Kea has come to symbolize a rigid dichotomy between culture and science". This is false. Culture is an overarching term that can be used to describe an entire society. Science *is* culture. Religion is also culture. The conflict you are seeing is between *religion* and science, which is as old as humanity. The protesters play the role of the church in this drama, with TMT as Galileo. The reason the protesters keep using the word "culture" is to mask the fact that their preferences are in fact *religious*. They do this for the obvious reason that their religious beliefs are not more important than anyone else's, and in fact we are protected from their religious beliefs by law. Using the word "culture" is just an attempt to side-step the prohibition on the establishment of religion by the state.

7. With respect to the management of Mauna Kea, we believe the University of Hawaii has been doing an excellent job, especially in the past 20 years and specifically with respect to the [TMT](#), which is a model for environmental stewardship and will be paying \$3M in rent and community benefits per year for its 50 year operation lifetime (plus significant amounts during construction).

8. Finally, the real point of this bill is so that the TMT protesters can create disruption and uncertainty in the management of Mauna Kea in the hope that it further delays TMT and kills off all of astronomy on Mauna Kea. If this deeply flawed bill does move forward, it should, at minimum, guarantee that astronomy on Mauna Kea will continue for another 100 years and that all currently permitted projects will be constructed and allowed to operate for their entire planned lifespans. It should also be coupled with a commitment and bond from all protester-backing entities that they will no longer oppose the construction of TMT.

Please scrap this bill and focus your energies on moving the TMT project forward under the currently permitted arrangement.

Mahalo,

'Ai Noa Foundation

The Historical Context for Sacredness, Title, and Decision Making in Hawai'i: Implications for TMT on Maunakea

SAMUEL W. KING II,¹ WALLACE A. ISHIBASHI JR.,² RICHARD HA,² KYLA PUMEHANA EDISON,^{3,4,5} MAKANA SILVA,^{1,2,6}
VERONICA OHARA,¹ AND THAYNE CURRIE⁷

¹*ImuaTMT, Honolulu, HI*

²*Perpetuating Unique Educational Opportunities, Hilo, HI*

³*PISCES, Hilo, HI*

⁴*University of Hawai'i-Hilo, Hilo HI*

⁵*Department of Geology, Colorado School of Mines, Golden CO*

⁶*The Ohio State University*

⁷*NASA-Ames, National Astronomical Observatory of Japan*

ABSTRACT

This analysis describes the historical background on sacredness, title, and land use decision making in Hawai'i and implications for TMT on Maunakea based on reliable probative evidence, peer-reviewed publications, and binding legal decisions. TMT is sited well away from summit regions where traditional cultural practices occur. Excavation and industrial use of Maunakea occurred under the *kapu* system prior to arrival of Europeans in 1778. The Kingdom of Hawai'i abolished the *kapu* in 1819 and codified separation of church and state. Decision making relevant to the TMT issue before and after the overthrow of the monarchy was ancestry/background-neutral. Title for Maunakea has always rested with the government for the benefit of all citizens. Land use disputes were adjudicated by a government entity; the legal process in the State of Hawaii continues this policy and enshrines further protections for traditional and customary Hawaiian practices.

This record informs recent statements by the Canada Long-Range Plan 2020 (LRP) and the Canadian Astronomical Society (CASCAS). When applied to TMT on Maunakea and taken purely at face value, the framework identified in the LRP and recently stated by CASCAS is ahistorical, unconstitutional, and does not seem to consider steps taken to achieve free, prior, and informed consent through the process mandated by Hawaii state law which protects traditional and customary rights of Hawaiians. *However*, a request for actions addressing broader issues animating protests against TMT would be more feasible. The LRP's current formulation and CASCAS's statement should thus be clarified. The US Decadal Survey 2020 should likewise avoid misunderstandings.

1. INTRODUCTION

The *Thirty Meter Telescope* (TMT) is an optical/infrared telescope planned for construction on Maunakea, an inactive shield volcano on Hawai'i island, supported by the University of Hawai'i and an international consortium that includes partners in the United States and Canada [1]. Plans for a construction start in 2019 were disrupted by protesters, many of whom believe that Maunakea's sacredness precludes any construction. Understandably, the astronomy community seeks support for transformative science that *also* obtains the support of local communities and clearly follows legal procedures for approval [see 2; 3].

Drawing from their interpretation of the United Nation's *Declaration of the Rights of Indigenous Peoples* [4], especially Articles 19 and 26, the *Canada Long-Range Plan 2020* (LRP) describes this support and an appropriate process as "... centering on consent from Indigenous Peoples and traditional title holders" [5]. While perspectives could vary, one possible interpretation could be that Native Hawaiians as a group would have to provide a special and separate legal approval to TMT construction before it could proceed. Another could be that that telescope opponents themselves would have to agree to construction before it could proceed. Yet another could question whether the process in Hawai'i did not carefully weigh traditional and customary rights for Hawaiians at all.

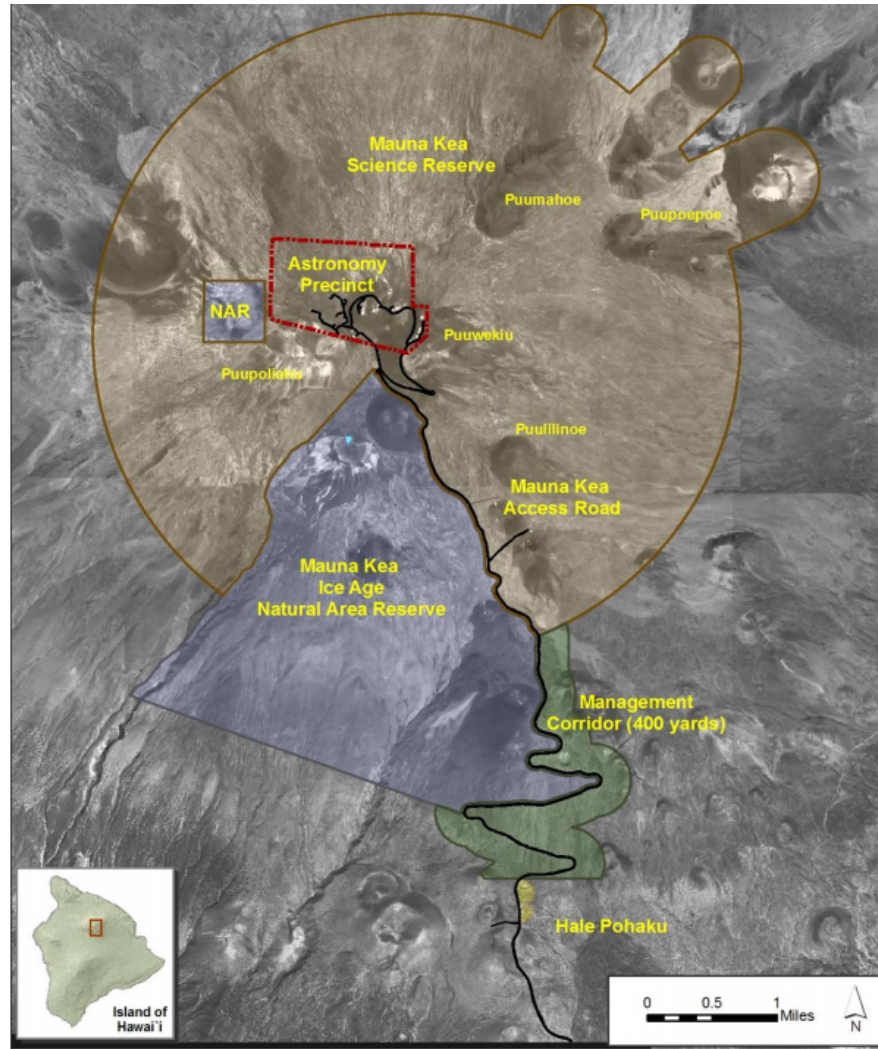


Figure 1. Map of Maunakea from official State of Hawaii government documents (<https://dlnr.hawaii.gov/mk/files/2016/10/Ex.-A-009.pdf>). The adze quarries cover much of the area outside the Astronomy Precinct shaded in brown. The TMT site is located near and slightly smaller than the first 'c' in Precinct.

We describe the historical background to these issues in Hawai'i – sacredness, title, and decision making on land use – and their implications for TMT on Maunakea based on reliable probative evidence, peer-reviewed publications, and binding legal opinions in Hawai'i. In particular, we center sources that were written by Hawaiians, in the Hawaiian language, and/or by the government during the Hawaiian Kingdom era.

The record informs aspects of the LRP's formulation and, especially, recent public statement on this issue by the *Canadian Astronomical Society* [6] relevant to 1) their factual accuracy and historical basis, 2) their constitutionality according to US law, 3) the nature of their envisioned decision making framework for Hawai'i, and 4) their consideration of steps taken to achieve free, prior, and informed consent versus the process mandated by Hawaii state law¹.

2. SACREDNESS IN HAWAII BEFORE, DURING, AND AFTER THE HAWAIIAN KINGDOM ERA

In ancient Hawai'i (prior to contact with Captain James Cook in 1778), the only well documented system governing personal and religious practices, laws, and regulations was the *kāpu* system, a widespread system of Polynesian religious beliefs and practices. Hawai'i's version may have been directly influenced by priest, chief (*ali'i*), and navigator Pa'oa who is said to have arrived in Hawai'i from Tahiti sometime in the 12th or 13th century CE [7]. All activities were

¹ We emphasize that the implications of this article do **not** necessarily compel CASCA to endorse a simple resumption to a full construction schedule irrespective of any other steps. Should TMT – as a part of the US ELT Program – be considered for federal funding through the National Science Foundation, additional consultation will be required before project completion as a part of the *National Environmental Protection Act* (NEPA) process. Additional measures – including those only within the power of the federal government – may be helpful. Rather, the article simply requests that foreign institutions not impose an ahistorical, artificial framework for resolving this matter.

governed by the *kapu* religion [7, Chapters 1, 11, 18, 21, 23-24, 25-33, 35]. Thus, any historically-grounded verifiable claims of sacredness prior to 1778, as a solely Hawaiian matter, derive from the *kapu* system.

Archaeological evidence demonstrates that, *while the kapu system was in effect*, Hawaiians utilized Maunakea as a valuable resource for industrial activities for over 500 years until the time of western contact [8; 9]. Hawaiians excavated the upper slopes of Maunakea for stone of exceptional quality to make tools. As described by Hawaiian cultural practitioner and master navigator Kalepa Baybayan during the TMT contested case hearing, “[t]hey ... shaped the environment by quarrying rock, left behind evidence of their work, and took materials off the mountain to serve their communities, within the presence and with full consent of their gods.” [9; 10]. This adze quarry complex covers an area over 900 times the size of the permitted TMT site, which itself is small compared to the entire astronomy precinct [Figure 1; 9].

Hawaiians overthrew the *kapu* system in 1819 by themselves, *before* the arrival of American missionaries and without the support of western powers like Great Britain, France, or the United States. On October 4, 1819, Kamehameha II, who became king after the death of his father Kamehameha I (the founder of the Hawaiian Kingdom), ate dinner with Queen Ka‘ahumanu, Kamehameha I’s favored wife, and Queen Keōpūolani, the mother of Kamehameha II. The prohibition on men and women eating together, the ‘*ai kapu*, was one of the most ancient kapus or prohibitions: the penalty for its violation was death. Violating the ‘*ai kapu* at a public dinner, as Kamehameha II did, was a clear signal that the *kapu* system was abolished given Kamehameha II’s status as King, Kahamumanu’s status as Queen Regent, and Keōpūolani’s status as Queen. The guests at the dinner cried out “‘*ai noa!*” (free eating). Afterwards, Kamehameha II – with the support of his high priest Hewahewa – ordered the destruction of the ancient *heiau* temples [7, Chapter 11][11, Chapter 10] [12].

After the breaking of the *kapu*, a brief civil war then broke out, with Kamehameha I’s nephew, Kekuaokalani, opposing. Kekuaokalani’s forces were defeated by Kamehameha II’s at Kuamo‘o [12]. The victory by Kamehameha II’s forces established, as a matter of Hawaiian political history, that no Hawaiian could impose *kapu* prohibitions on another ever again.

The Hawaiian Kingdom issued binding Constitutions in 1840, 1852, 1864, and 1887. Each constitution explicitly granted all citizens freedom of religion “according to the dictates of their own consciences”, not according to an official state-authorized religious organization [13; 14; 15; 16]. The 1852, 1864, and 1887 constitutions further clarified that religious freedoms are protected, so long as they do not interfere with “the peace and safety of [the Hawaiian] Kingdom”.

The public-facing beliefs of the *mo‘i* (monarchs) of the Hawaiian Kingdom from Kamehameha II onwards provided no evidence that the *kapu* system or corpus of traditional (i.e. pre-western contact) religious beliefs were considered normative, including any surrounding Maunakea. Successors to Kamehameha II were either members of the Congregational Church or Church of Hawai‘i (Anglican). The last monarch of Hawai‘i, Queen Lili‘oukalani, was a particularly devout Protestant Christian whose autobiography contains a vivid description of and affinity with Mauna Loa and the crater lake of Kilauea but no similar focus on (or even mention of) Maunakea [17, Chapter 11].

Irrespective of the *kapu* system governing personal conduct, actual beliefs and practices of the *maka‘ainana* (i.e. commoners) and *ali‘i* (nobles) prior to European contact regarding deities varied wildly [e.g. see 7, Chapter 23]: individual beliefs and practices were not necessarily representative of Hawaiians as a whole. Major deities common to Hawaiians regardless of class were *Kanaloa* (ocean), *Kāne* (sky), *Kū* (war), and *Lono* (fertility); *Lau-huki* and *La‘a-hana* were worshipped only by women. As detailed by Hawaiian historian David Malo in *Hawaiian Antiquities*, some of the gods one idolized and worshipped depended on one’s occupation (e.g. those who made canoes vs. fisherman); some gods were worshipped by the *maka‘ainana* but not the *ali‘i* and vice versa. Some had no god at all (atheists or *aia*). Scattered pre-western religious practices of the *maka‘ainana* remaining after the *kapu* system was overthrown were almost exclusively localized, focusing on ‘*aumākua* (personal, family gods), not public religious ceremonies devoted to gods idolized prior to western contact [18].

Despite the non-uniformity of beliefs and practices across Hawai‘i prior to and after the *kapu*’s abolition, the historical record does provide ample evidence that *some* parts of the Maunakea summit were used for traditional and customary practices, many of which continue today, supporting the view that at least parts of Maunakea were considered by some individuals to be a sacred landscape [19; 20]. The record shows that Hawaiians have traditionally brought *piko* (umbilical cord) to Lake Waiau (southwest portion of summit) or buried on top of various *pu‘u* (cinder cones). Organizations such as the *Royal Order of Kamehameha I* have constructed *lele* (sacrificial alter or stand) on the

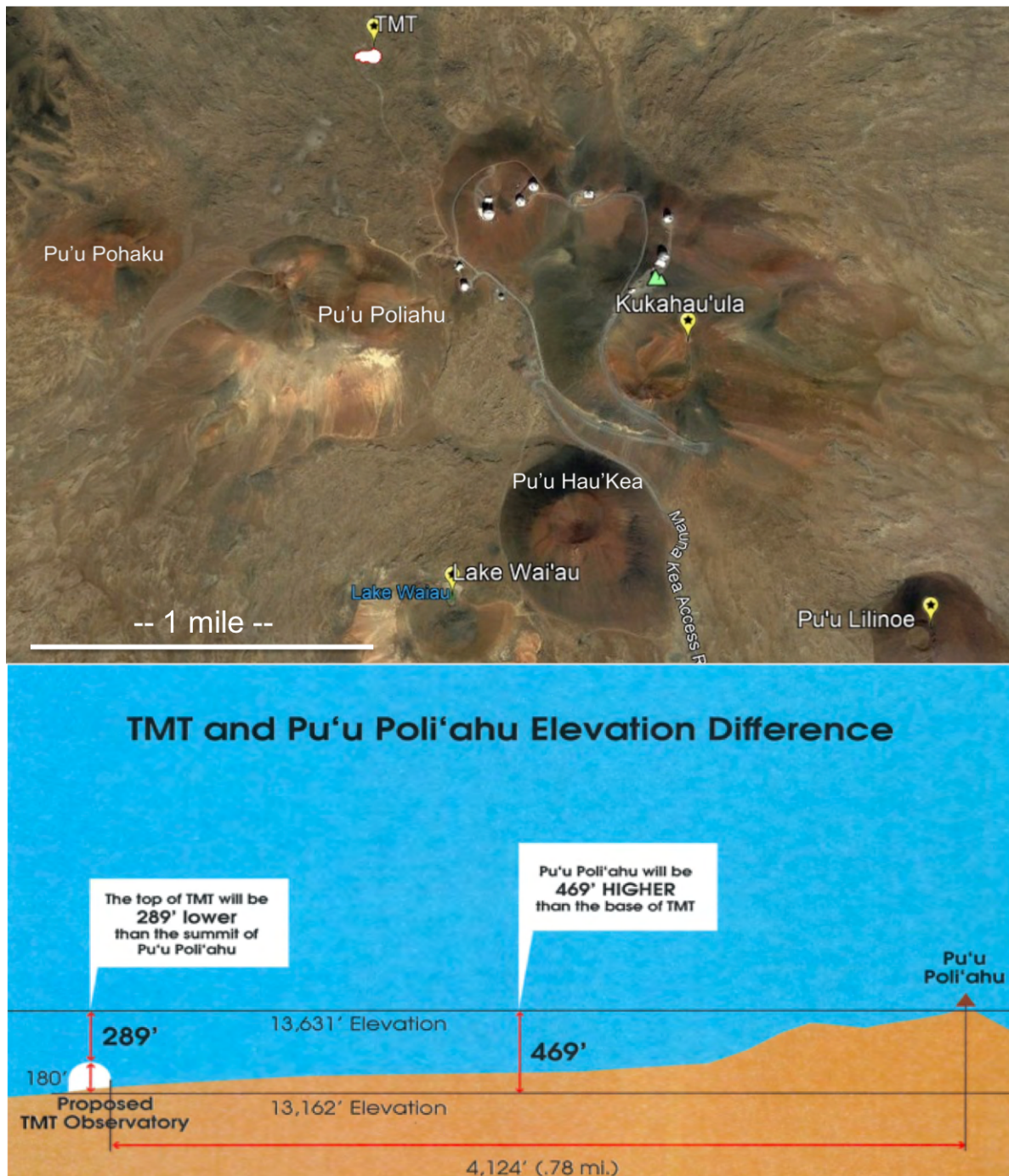


Figure 2. (Top) Satellite image of the Maunakea summit area focused on the Astronomy Precinct (source: Google Earth. TMT is well away from cultural practice areas on Maunakea: Pu'u Poli'ahu (0.78 mi), Lake Wai'au (1.42 mi), Pu'u Weiku (1.16 mi), and Pu'u Lilinoe (2.02 mi). TMT will not be visible from culturally sensitive sites the summit of Kukahau'ula, Pu'u Lilinoe, and Lake Wai'au. (Bottom) TMT cannot interfere with the viewplane to Haleakalā or the setting of the sun at Pu'u Poli'ahu. (from Exhibit C-20) in the TMT contested case hearing.

However, the record shows that TMT itself will not impact these long-standing practices (Figure 2) [9]. The TMT site has not historically been used for traditional or customary practices – e.g. building of *ahus*, depositing of *piko* – and has not been used by current practitioners for such practices. Furthermore, TMT cannot block viewplanes associated with cultural practices elsewhere and is not visible from the most culturally sensitive sites such as Lake Waiau. As a result of its consultation with cultural practitioners, TMT incorporated other steps, including being a zero-waste facility and selecting the observatory’s appearance to blend in with its surroundings as much as possible.

Ahupuaa of Kaohe Mauka

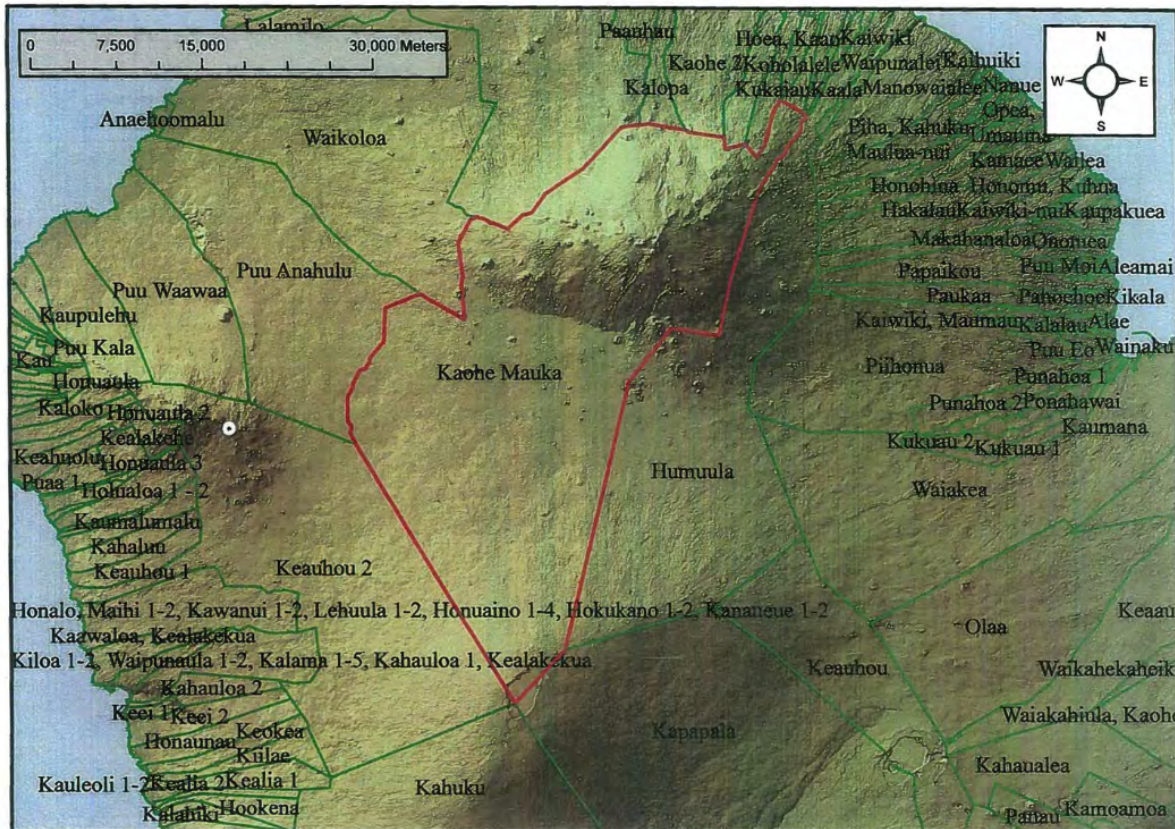


Figure 3. Land division map from the Office of Conservation and Coastal Lands for the State of Hawaii as listed as page 1 of Exhibit A-008 in the *Thirty Meter Telescope* contested case hearing. The Maunakea summit lies within the Kaohe Mauka (mountain) land division, which is Government Land.

3. HISTORICAL OWNERSHIP OF MAUNAKEA

Pre-western contact Hawai'i followed a feudal system of land tenure, where the *mo'i* (kings) were supreme owners of all the land. In different divisions such as *ahupua'a*, the chiefs and *konohiki* managed and the *maka'ainana* tended this land [7; 23]. The 1840 Constitution affirmed that all the land in Hawai'i belongs to the reigning monarch[13]. However, in 1848, the *Great Mahele* (great land division) abolished this system, dividing the land into three categories: that reserved for the monarchy (Crown Lands)³, that reserved for the government itself to support public works

² Some traditions hold that the name of the mountain itself confers cultural/religious symbolism. The name “Maunakea” is usually translated as “white mountain”. An alternate rendering of the name associated with some *mo’olelo* (stories) and *mele* (songs) is “*Ka Mauna A Wākea*” (*lit.* The Mountain of Wākea). Malo describes Wākea and spouse Papahānaumoku (or Papa) as the literal progenitors of the Hawaiian people [7]; Wākea is listed first in the genealogy of *mo’i* and described as a man or demi-god [see also 22]. In the *Kumulipo* (Hawaiian chant of creation), Wākea and Papa are instead described as the Sky Father and Earth Mother, respectively, who are responsible for creating the Hawaiian islands although some scholars (e.g. Beckwith) question their overall centrality in the chant and Maunakea itself is not directly mentioned. The *mele hanau* (birth chant) of Kamehameha III, composed in 1814 (prior to the *kapu*’s abolishment), does give Wākea divine attributes and tie him to Maunakea. Otherwise, the earliest written accounts described in Maly (Section III) list the name of mountain simply as “Mauna Kea” or “Mouna Kea”, consistent with the “white mountain” interpretation.

³ Originally, the Crown Lands were considered to be the personal property of the monarch. However, in 1864 the Supreme Court of the Kingdom of Hawai'i clarified that they belong to the office of monarchy [31].

and government interests (Government Lands), and Konohiki lands reserved for the *ali'i* and *konohiki* (who were administrators for the *ahupua'a*)⁴.

The responsibilities of the government and intent of use differed with respect to the Crown and Government Lands. The Crown Lands were owned by the monarchy. Since only Hawaiians were *mo'i* and the Crown Lands were seen as held in trust for the *maka'ainana*, some scholars argue that *kanaka maoli* (indigenous Hawaiians) have a “particular linkage” to the Crown Lands. Government Lands were different, “utilized as general Public Lands to support the Government and the *general* population” [23]. Thus even some scholars such as van Dyke who interpret Crown lands as reserved primarily for Native Hawaiians⁵ nevertheless concede that “it can be argued that [Government Lands] should continue to be used by successor governments for the same purpose of serving the entire population” (pg. 382).

During the Kingdom era from the *Great Mahele* onwards, the summit of Maunakea was designated as Government lands whose disposition was overseen by the Minister of the Interior [23; 19]. Maly affirms that the Maunakea summit regions above 9,000 ft elevation – where the current observatories and TMT’s site are located – are within the Kaohe *ahupua'a* categorized as Government Land, whereas (eastern) parts of the Maunakea upper slopes sit on Crown Lands (pg. 280). The current land division roughly follows these boundaries (Figure 2).

Prior to 1850, the *maka'ainana* could cultivate land on which they lived while paying tribute to the *konohiki*. Through the Kuleana Act of 1850, *maka'ainana* could gain fee simple titles to land they occupied and improved. The amended version of the Kuleana Act ensured that *maka'ainana* living on land owned by the chiefs after the Mahele have access for “traditional and customary gathering rights, rights to drinking water and running water, and the right of way” on land in which they live [24]. By 1850, the Government could offer/sell land to others (including citizens and foreigners). This radical re-envisioning of land use claims was adjudicated by the Land Commission, a government entity. The process of gaining title then required personal testimonies regarding an applicant’s residencies and land use practices and a hearing before the Land Commission. Maly transcribes hundreds of pages of testimony from residents to define prior use of and boundaries for different land divisions. Over a nine year period, the Commission heard nearly 12,000 individual claims and the *Indices of Awards Made By the Board of Commissioners to Quiet Land Titles in the Hawaiian Islands* (hereafter, *Indices*) lists these awards in ten volumes [26].

The historical record thoroughly detailed in the *Indices* and Maly provides numerous examples of *maka'ainana* seeking to claim title to lands throughout Hawai'i. However, it **provides no evidence during the Kingdom era of one group defined purely by ethnicity or religious group as traditional title holders of the Maunakea summit**. Ownership remained with the government. The only traditional lessees on record were ranchers whose focus was grazing land at elevations well below the summit [19, at 370-372, 420-421]⁶; the *Indices* shows only one *maka'ainana* title within Kaohe *ahupua'a*, which focused on a 7-acre plot at low elevations for crop cultivation (e.g. coffee, taro). Maly reports no other lessees to the summit of Maunakea prior to 1893. It remained unsold Government Lands.

After the overthrow of the monarchy in 1893, Crown and Government lands were incorporated into “Public Lands” by the Republic of Hawai'i [23, at 192]. Title to Maunakea was transferred to the US federal government after annexation in 1898 under the Newlands Resolution, which stated that Public Lands (the former Crown and Government Lands) shall be used “for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes”. Ownership of the former Crown and Government Lands were then transferred to the state of Hawaii in 1959 under the Admissions Act “as a public trust to promote various public purposes” [32]. Article XII, Section 4 of the Hawaii State Constitution clarifies that the beneficiaries of this trust includes the general public.

In all cases, the traditional title holders of the Maunakea summit were successive governments who were mandated to use this land for the benefit of the *general* public. The unanimous United States Supreme Court decision in *State of Hawaii v. Office of Hawaiian Affairs* (2009) tacitly upheld this interpretation, affirming that the State holds an unclouded title to these lands [32] (see also acknowledgement of this position cited in van Dyke, referencing *Delima*

⁴ We acknowledge that the *Great Mahele* itself is controversial. Kamehameha III likely advocated for it as an insurance policy against *maka'ainana* completely losing land rights in case of conquest from Western powers. This outcome was considered a possibility by the 1840s: e.g. see the Paulet Affair in 1843, where the British Navy occupied Hawai'i, briefly coercing a cessation of Hawai'i and creating a new government, until military and diplomatic intervention by the United States helped restore sovereignty. Its practical consequence is that non-Hawaiians owned a significantly greater proportion of land in the Kingdom of Hawai'i than Hawaiians by 1890 [23]. However, even from this skeptical stance, Maunakea cannot be seen as yet another land tract wrested away from the *maka'ainana* by foreigners due to new land use rules since the land title always remained with the government.

⁵ This interpretation may conflict with the 1900 Organic Act and, more importantly, Hawaiian Kingdom law, which by the mid 1840s clearly allowed non-Hawaiians to be considered as native subjects with equal rights. Early statute laws stated that “all persons born within the jurisdiction of this kingdom, whether of alien foreigners of naturalized or of native parents ... shall be deemed to owe native allegiance to His Majesty ...” and “... shall be amenable to the laws of this kingdom as *native subjects*” [27; 25]. The Kingdom of Hawai'i Supreme Court upheld this interpretation in *Naone v. Thurston* (1856) [28]. The 1859 civil code further clarifies: “Every foreigner so naturalized, shall be deemed to all intents and purposes a native of the Hawaiian Islands ...” and “... shall be entitled to all the rights, privileges and immunities of an Hawaiian subject.” [29]. Regardless of interpretation, the intent of the Crown Lands is less relevant for the Maunakea summit, since the summit was designated as Government Lands.

⁶ An Australian rancher (Francis Spencer) acquiring leased land between Maunakea and Mauna Loa. In 1891, The Humuula Sheep Station Company and Samuel Parker (of Parker Ranch) both leased land on Maunakea partially overlapping with the summit regions.

v. Bidwell[33] *Texas v. White*[34]). The Supreme Court of the State of Hawaii in *State v. Kaulia* “reaffirms that ‘[w]hatever may be said of the lawfulness’ of its origins, ‘the State of Hawaii ... is now a lawful government’”[35]⁷.

4. DECISION MAKING DURING THE HAWAIIAN KINGDOM ERA

The united political entity known as “Hawai‘i” began life taking key steps to being a multi-ethnic society. Prior to conquest by King Kamehameha I, Hawai‘i was a collection of separate Kingdoms[11]. Two of Kamehameha’s non-native advisors who aided in his conquest[11], John Young and Isaac Davis, were made into *ali‘i* before the archipelago was united as the Kingdom of Hawaii. They married Hawaiian chiefesses and they were subject to the Kapu religions strictures. They remained *ali‘i* after the kingdom’s establishment and were given power as governors of various islands when Kamehameha was traveling [36; 37]. Young was made governor of the island of Hawai‘i. Davis acted as Governor of Oahu. An American, Oliver Holmes, was also made governor of the island of O‘ahu in 1810 after Davis’ death [25]. Despite not having been born in Hawai‘i prior to 1778, these residents were integrated into the Hawaiian political and religious system.

By 1840, the Kingdom of Hawai‘i transformed into a constitutional monarchy modeled after Great Britain, granting voting rights and citizenship regardless of background [25], and instituting a popularly-elected legislature (the House of Commons) to pass laws. Hawaiian Kingdom statute law promulgated in 1846 and then in 1859 as well as Hawai‘i Supreme Court decisions clearly considered anyone born in Hawai‘i as well as foreign, naturalized citizens to be *native* subjects [27; 28; 29].

Non-Hawaiians were allowed to hold positions of power and decision making as equals (e.g. judicial appointments, elected members of the legislature). For instance, many justices appointed by the reigning Kings to the Hawai‘i Supreme Court were in whole or in part from American or European background. Aside from a brief interval where those of Asian ancestry were disenfranchised through discriminatory language and treaty requirements (1887-1894)⁹, a race-neutral system of governance defined the Kingdom era from the mid 1840’s onward.

Successive Hawaiian Kingdom constitutions codified a background-neutral approach for decision making [25]. The first (1840) constitution had no racial restrictions on voting or representation [13]. The second (1850) constitution likewise had no racial requirements for voting, election to the house of representatives, or requirements for Hawaiian-only consent for laws passed [14] (see articles 73, 76, 77, and 78). The Government itself owned Government Lands. Government Lands could be sold, but otherwise decisions about how such land was to be used rested in the government – the monarchy, the legislature, or another government agency like the Land Commission – and not in an individual or specific group [25; 31]. While the reigning monarch historically was always full Hawaiian, John Young’s half-Hawaiian son Keoni Ana acted as the first Kuhina Nui, a special counselor who could veto the actions of the King. Members of the legislature and the Land Commission included both Hawaiians and non Hawaiians. Even the history of the monarchy could have turned out differently. Queen Emma, widow of Kamehameha IV, was the granddaughter of John Young (Englishman and advisor to Kamehameha I). After Kamehameha IV died (1874), she ran for royal election but was defeated by King David Kalākaua.

5. CONTEMPORARY LAND USE LAW, DECISION MAKING IN THE STATE OF HAWAII, AND FEDERAL GUIDELINES

TMT faced and successfully completed a drawn out, legal steeplechase in order to obtain a permit to construct an observatory on Maunakea. In order to obtain a permit, TMT had to demonstrate that rights outlined for Native Hawaiians in the State of Hawaii Constitution and subsequent Hawaii Supreme Court cases would not be violated and that it would not cause a substantial adverse impact to traditional and customary practices. We focus separately on the mechanics of the process followed, including approval/consent obtained from various organizations, the specific legal standards used to evaluate the observatory’s permit, and federal guidelines on decision making.

5.1. *The Process*

⁷ Contemporary debates on land rights in Hawai‘i for Native Hawaiians are often cast within the context of sovereignty and self determination. Some recent scholars – van Dyke, for example – argue passionately that the Crown lands are tracts that should form the basis for a future Hawaiian Nation, a federally-recognized entity separate from the state of Hawaii with a government-to-government relationship with the United States. The authors of this work represent diverse perspectives on this matter, from preservation of the status quo to federal recognition to possible secession and independence from the United States. However, they agree on the historical basis for title for the Maunakea summit rests with whichever government holding title to the summit is in power, currently the State of Hawaii. Thus, the facts presented in this work describing *past* title are independent of each author’s preferred *future* political arrangement for Hawai‘i.

⁸ These conclusions do **not** in any way provide an excuse or justification for the overthrow of the Hawaiian monarchy in 1893 or the annexation of Hawaii by the United States on moral grounds. As evidenced by the Ku’e petitions, annexation faced significant public opposition from many Hawaiians [30]: some non-Hawaiians were also in opposition [23].

⁹ This disenfranchisement resulted from the 1887 Constitution, also known as the “Bayonet Constitution” signed by King Kalākaua. As it was signed under coercion, the Bayonet Constitution is viewed as suspect and its disenfranchisement of those from Asian ancestry – who were by 1893 the majority group in Hawaii – is an aberration [25].

Land use decisions in the State of Hawaii relevant to TMT require a Conservation District Use Permit application (CDUA) to the State’s *Board of Land and Natural Resources* (BLNR). To help evaluate the CDUA and render an informed land board decision, TMT was required by State law to obtain an Environmental Impact Statement (EIS). Key community components of the EIS process included public scoping meetings through Hawai’i island to freely inform community members of the project specifics prior to a permit application and solicit input on the project. Hawaiians with cultural practices on Maunakea, including those who had publicly opposed astronomy development in the past, were deliberately sought out for consultation. The project was required to respond to *every single* written public comment obtained as a consequence of the EIS process [38](Volume 2); it identified mitigation measures to address community concerns. The 2000+ page EIS found that TMT would cause no significant impact to Maunakea’s natural and cultural resources [38].

Prior to submitting a CDUA, various governmental and Hawai’i community entities voiced consent for TMT. The governor of Hawai’i reviewed and approved the findings of TMT’s EIS [39]. Concurrently, the *Maunakea Management Board* (MKMB) comprised of local community leaders who advise the University of Hawai’i on management of Maunakea approved the TMT project [40]. During the MKMB discussion on TMT, *Kahu Kū Mauna* – the community based council drawn from the Hawaiian community – had the opportunity to object to the TMT project but declined to do so. In not objecting to TMT, *Kahu Kū Mauna* noted that TMT “has demonstrated intentions of responsible tenancy”¹⁰. One month later, the University of Hawai’i Board of Regents gave official approval for TMT [41]. The *Office of Hawaiian Affairs* (OHA) unanimously voiced support for TMT in 2009.¹¹

Under Hawaii State Law, residents wishing to challenge the potential issuance of a Conservation District Use Permit (CDUP) on the state’s conservation district land may request a contested case hearing, a quasi-judicial proceeding consisting of presented evidence and cross-examination and overseen by a hearing’s officer (usually a judge) who then recommends a permit decision to BLNR. Residents can further appeal the issuance of a CDUP to the State of Hawaii Circuit Court, Intermediate Court of Appeals, and then the Supreme Court.

TMT went through the CDUP application and appeal process twice. Both times, BLNR issued TMT a CDUP after considering the full contested case hearing record and recommendation of the hearing’s officer. Its original permit (issued in 2013) was struck down in 2015 due entirely to a procedural error made by BLNR [42]. TMT regained its permit in 2017 [9], and its permit was upheld by the Hawaii Supreme Court in 2018 [43].

5.2. The Legal Standard for TMT in Hawai’i

The Constitution of the State of Hawaii (1978), statute law, and subsequent Hawaii Supreme Court decisions enshrine protection for traditional and customary rights for Hawaiians and define the strict criteria under which TMT gained an approved construction permit.

Article XII, Section 7 of the Hawaii State Constitution declares that the “[s]tate reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by *ahupua’a* tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.” The 1992 *Pele Defense Fund* Hawaii Supreme Court decision held that these rights may extend beyond the *ahupua’a* where a Native Hawaiian resides to regions outside “where they have been customarily and traditionally exercised”[24; 44]. The Court’s decision in *Public Access Shoreline Hawai’i* (commonly known as *PASH*) affirmed that all government agencies undertaking or approving development of undeveloped land are required to determine if native Hawaiian gathering rights have been customarily and traditionally practiced on the land in question and explore the possibilities for preserving them [45].

The Court’s *Ka Pa‘aki* decision provided a stringent framework “to help ensure the enforcement of traditional and customary Native Hawaiian rights while reasonably accommodating competing private development interests” [46]. Specifically, it imposed an affirmative duty on BLNR to determine the following with respect to the TMT project:

1. the identity and scope of valued cultural, historical, or natural resources ... including the extent to which traditional and customary Native Hawaiian rights are exercised in the [TMT project] area,
2. the extent to which those resources - including traditional and customary Native Hawaiian rights - will be affected or impaired,

¹⁰ At the time, *Kahu Kū Mauna* was chaired by Kumu Ed Stevens, a well-known Hawaiian cultural practitioner who had spoken out publicly against astronomy development on Maunakea in the past <https://www.latimes.com/archives/la-xpm-2001-mar-18-mn-39418-story.html>. Kumu Stevens’ support for the *Thirty Meter Telescope* is documented in *Volume 3 of the TMT EIS*.

¹¹ OHA changed to “no position” (i.e. effectively neutral) in 2015 after a pressure campaign from TMT opponents.

3. and the feasible action to be taken by the agency to reasonably protect Native Hawaiian rights if they are found to exist.

Article XI, Section 1 of the Hawaii State Constitution holds that all public natural resources, including Maunakea summit land, are held in trust for the state, for the benefit of the people. This section requires a “balancing between the requirements of conservation and protection of public natural resources, on the one hand, and the development and utilization of these resources on the other in a manner consistent with their conservation” [43, pg. 48].

Finally, Hawaii Administrative Rule 13-5-30(c) lists the eight criteria for evaluating the merits of TMT’s permit application. For instance, criterion 4 states that the “proposed land use will not cause substantial adverse impact to existing natural resources within the surrounding area, community, or region” [47].

The BLNR decision approving TMT’s permit and Hawaii Supreme Court decision upholding the permit issuance describe in depth how TMT’s permit is consistent with state constitutional law, properly addresses the *Ka Pa‘aki* analysis, is consistent with the Public Trust Doctrine, and satisfies the eight criteria [9; 43]¹². For example, in satisfying *Ka Pa‘aki*, BLNR found no Native Hawaiian cultural resources or traditional or customary practices within the TMT project area and found that TMT will not adversely impact cultural resources elsewhere. During the contested case hearing, TMT opponents themselves did not claim any traditional and customary practices on the TMT site.

5.3. Federal Restrictions on Decision Making in Hawai‘i

An amendment to the Hawaii State Constitution in 1978 created the *Office of Hawaiian Affairs* (OHA), a state agency tasked with administering state resources for the benefit of Hawaiians. Originally, the right to vote in OHA elections was restricted to Native Hawaiians or Hawaiians¹³.

However, in *Rice v. Cayetano*[48], the US Supreme Court struck down the race-based voting requirement for OHA because it violated the Fifteenth Amendment to the United States Constitution¹⁴. Furthermore, in *Arakaki v. State of Hawaii*, the 9th Circuit Court of Appeals affirmed the US District Court’s holding held that state laws denying the right of non-Hawaiians to run for office of OHA trustee were unconstitutional racial discrimination violating the Fifteenth Amendments and the Voting Rights Act [49; 25]. The key argument underlying these decisions is under US law that neither OHA (and no other organization focused on Hawaiians) nor Hawaiians as-such function as a *tribe*, which can impose an ancestral restriction on decision making. The US Supreme Court has explained that because tribes on the mainland United States retained some elements of quasi-sovereign authority related to self-governance, a non-indigenous person can lack voting rights in a tribal election because such elections are the internal affair of a quasi-sovereign government predating outside contact and not created by the US federal government or a state government”[48, as quoted in 21]. Hawaii is also different as by design and in practice it was a multi-ethnic, secular nation.

Citing the 1993 Apology Resolution[50], in 2008 the Hawaii Supreme Court held that the state was restricted from transferring publicly held land – Crown land – for private development until the claims of Native Hawaiians had been resolved as a result of a federal reconciliation process[51]. However, in *State of Hawaii v. OHA* the US Supreme Court unanimously overruled the state court’s decision, returning decision making power to the state [52].

In summary, there is currently no Hawaiian government that could possibly be granted legally enforceable decision making power with respect to TMT, any other observatory on Maunakea, or any other structure elsewhere on public lands¹⁵. Such a government would have to be created by the United States. The US Supreme Court further affirms that decision making power for land use rests with the State of Hawaii.

6. IMPLICATIONS FOR TMT ON MAUNAKEA

The record described above corrects what is a skewed understanding of Maunakea’s cultural significance and land title and the decision-making process for land use held by some on the mainland. Whether or not Maunakea is/was deemed sacred, excavation and industrial use on Maunakea was historically permitted alongside the *kapu* system. Very early in the Hawaiian Kingdom’s history, the *kapu* system was abolished and freedom of religion established,

¹² For instance, these topics are covered in the Hawaii Supreme Court decision on pages 32-42 and 47-62.

¹³ Here, Native Hawaiians were defined as “any descendant of not less than one-half part of the races inhabiting the Hawaiian Islands previous to 1778”. Hawaiians were defined as any descendant[s] of the aboriginal peoples inhabiting the Hawaiian islands ... in 1778, and which peoples thereafter have continued to reside in Hawaii”

¹⁴ The plaintiff in this case, Harold Rice, was a rancher of European descent whose family had lived in Hawaii since the mid 1800s. The Fifteenth Amendment states that the right to vote “shall not be denied or abridged by the United States or by any State on account of race, color or previous condition of servitude”.

¹⁵ See Section V.A in Hanifin [25] for a detailed discussion of significant legal and logistical challenges in creating a Hawaiian government independent of the State of Hawaii that has a government-to-government relationship with the United States.

eliminating the ability of the government or any group within Hawai‘i to impose religious land-use prohibitions on others. The public-facing beliefs of the Hawaiian Kingdom’s monarchs provide no evidence of religious beliefs centered around Maunakea that could be considered historically normative for Kingdom subjects. While traditional cultural practices do occur on Maunakea, they do not occur on or near the TMT site. TMT would not interfere with practices elsewhere.

The record described above also clearly shows that the concept of decision making implied in referenced sources contained in the *Canada Long Range Plan 2020* is ahistorical and the sources’ implicit identification of Maunakea’s traditional title holders is factually incorrect. With one brief exception, voting rights and decision making in the legislature and judiciary were race-neutral. An arm of the government – who represented *all* of the Kingdom of Hawai‘i’s citizens, regardless of background – adjudicated land use disputes. The title holders of Maunakea were/are the reigning government itself.

Furthermore, the LRP and CASCA statements does not appear to consider significant steps taken by the State of Hawaii to 1) achieve free, prior, and informed consent through the process mandated by Hawaii state law and 2) safeguard traditional and customary rights for Hawaiians. Going further than what was required during the Kingdom era, the State of Hawaii’s approach for land use decisions confers significant deference to traditional practices. In order to obtain approval for a construction permit on Maunakea, TMT had to undergo a decade long legal process, including community consultation and development of mitigation measures. It had to be consistent with enumerated rights in the Hawaii State Constitution. It had an affirmative duty to demonstrate that it did not adversely impact traditional and customary practices. TMT met all of these requirements.

Perhaps most importantly, the LRP and CASCA’s statements taken at face value are unworkable. There is no system for obtaining consent from Native Hawaiians as-such, especially one carrying legal force, in the same way Canada or the United States obtains consent for projects from First Nations groups on traditional tribal lands. Whatever the intrinsic merits of a Hawaiian-only decision making process, the US Supreme Court precludes the kind suggested by these statements. Leaders in Hawai‘i representing governmental agencies are elected by popular vote by residents without regard to background, including those whose focus relates to Hawaiians. Exceptions to this framework have been swiftly and decisively struck down by the US Supreme Court.

Hawaiians themselves have diverse and passionate opinions on TMT. OHA, the state agency charged with addressing the concerns of Native Hawaiians, currently has no position on TMT, and supported the project until they were subject to a pressure campaign from telescope opponents based on many factually incorrect statements popular on social media [53; 54; 55]. *Kahu Kū Mauna*, the group of Native Hawaiians established by the University of Hawai‘i to advise on Native Hawaiian cultural matters, did not object to the project. Some non-Hawai‘i residents following media coverage of this issue may believe that proceeding with TMT violates the rights of Hawaiians opposing the project. However, Hawaiian supporters of TMT rightly feel that their rights are violated when opponents are given effective veto power to overturn the results of a free and fair legal process.

The mechanism for Hawaii residents to express their approval/disapproval of TMT or any other similar land use is through the Environmental Impact Statement consultation and contested case hearing processes. Island residents were given extensive opportunities to comment on and object to the project [38]. They were given a full opportunity to challenge the issuance of a permit for TMT before the land board and then appeal a permit before the Hawaii Supreme Court, twice. Residents also elected leaders – Mitch Roth as Hawai‘i County mayor in 2020 and David Ige as governor in 2018 – who expressed support for TMT during the campaign vs. rivals who voiced opposition to the project. In this sense, Hawai‘i’s legitimate legal and political systems consented to the TMT project.

Finally, words matter. Besides putting forth an ahistorical and unworkable framework, the LRP and CASCA’s statements have an unintended chilling effect, as they effectively contribute to the further marginalization of the voices of the numerous Hawaiian supporters of TMT and astronomy on Maunakea^{16, 17}. The social pressure on Hawaiians with respect to TMT is *highly asymmetrical*. For the past decade, supporters of the Thirty Meter Telescope on Hawai‘i, Hawaiian and non Hawaiian alike, have been the targets of violent threats and intimidation by telescope opponents [56; 54]. Residents of Hawai‘i have sat by while the state’s leaders fail to prosecute some opponents who block a public highway, desecrate burial sites – placing bones on the TMT site in an attempt to “block” the project – and have left the protest site strewn with trash while damaging rare plants[57; 58; 59]. Former Mayor Harry Kim was found guilty

¹⁶ See, for example, here: <https://twitter.com/KalunaHeather/status/1390793841460977666>

¹⁷ These statements are particularly difficult for the many *kama‘aina* who work for the observatories and on Maunakea, relying on them for a livelihood

of ethics violations for non-enforcement of the law and TMT’s safe, legal access [60; 61]. Hawaiians who support TMT – even including those who are cultural practitioners – are nevertheless frequently harassed as “not real Hawaiians”.

Some individual mainland astronomers have unfortunately joined in this marginalization of Hawaiian TMT supporters¹⁸. Their erasure of Hawaiian viewpoints favoring TMT is offensive. Statements of this kind should be denounced just as an email describing TMT opponents as “hordes” were rightly denounced[62].

The statement from the LRP and CASCA – whose leadership contains no individuals who are Hawaiian or from Hawai‘i – can be easily read to imply that the Hawaiian TMT supporters stand “against human rights” (as quoted by the LRP co-chair). The LRP does not provide any documented evidence that they consulted any Hawaiian astronomers or Hawaiian TMT supporters prior to formulating their statements. These statements complicate efforts from within Hawai‘i to chart an equitable path forward. The LRP/CASCA statements have already been weaponized by hardline opponents within Hawai‘i disinterested in compromise.

However, an alternate reading of these statements leads to far more feasible actions: i.e. if the LRP and CASCA *intended* to mean that they support additional community-informed consultation and a *settlement* or similar actions, addressing broader issues for which TMT has become a symbol for some Hawaiians. As demonstrated in the groundbreaking work by Swanner[63], public opposition to astronomy from the Hawaiian community is a rather modern development. Open cultural claims on Maunakea were largely not made until the 1990s, brought to light as a byproduct of astronomy’s consultation with the local community for its management structure (e.g. the 2000 Mauna Kea Science Reserve Master Plan) [63, at 180-203, in particular 187-188]. Any early, prior public concerns about astronomy development on Maunakea drew from hunters and conservationists primarily worried about land management.

In Hawai‘i, the strong perception – supported overwhelmingly in Hawai‘i public opinion polls – is that **most opposition to TMT has little to do with the telescope itself or astronomy as such**, and far more to do with socioeconomic injustices and issues such as **land rights (especially Hawaiian homelands), the overthrow of the Hawaiian Kingdom in 1893, and land management on Maunakea and elsewhere** [64]. Land on which the TMT protest encampment has figured heavily into protests on these other issues in the recent past [65]. Stymied by lack of progress on these issues and historical injustices, a segment of the Hawaiian community has an opportunity to be better heard due to media awareness from the TMT protests.

The previous CASCA statement on TMT from 2019 [66] and letter on conflict resolution hosted on the CASCA webpage [67] provides a thoughtful, nuanced discussion of various viewpoints on Maunakea from within Hawaii and discussions of what might be included in an equitable path forward. Instead of imposing a framework from outside, these sources acknowledge that the process moving forward in Hawai‘i must be determined by people in Hawai‘i and signal a commitment to playing a constructive role in an outcome that is a win-win as much as possible¹⁹.

Considering the above, statements relating to TMT in the LRP and from CASCA should be clarified. Future statements from other organizations such as the US Decadal Survey 2020 should avoid similar misunderstandings.

Acknowledgements – The conclusions presented in this document are endorsed as accurate by recent, long-time Office of Hawaiian Affairs Trustee Peter Apo. We thank numerous *kānaka maoli* (Hawaiian) community members for their input on these topics and comments on earlier drafts, including Brialyn Kauionalani Onodera, James Maui-ola Keaka Stone Jr, Naea Stevens, Kealoha Stevens, Tyler Kupuono Trent, Amber Imai-Hong, Annette Reyes, LJ Remillard, and many unnamed others. Finally, we thank these and other Hawaiian community members for their exceptional courage in the face of pressure to stay silent.

About the Authors from Hawai‘i

Samuel W. King II - is a *kānaka maoli* attorney practicing contracting and real estate development law in

¹⁸ For example, mainland astronomers have publicly described Hawaiian TMT supporters as similar to African Americans who appear on conservative media outlets to criticize protests against police brutality https://mahalo136.rssing.com/chan-52129232/all_p1.html. Others – who are not Hawaiian nor have ever lived in Hawai‘i – nevertheless have described Hawaiian TMT supporters as “infused with settler-colonialist logics”, apparently oblivious to the irony of their statement. Erasure of the Hawaiian community supporting astronomy on Maunakea – including TMT – extends to official documents. For instance, the *Planetary Science and Astrobiology Decadal Survey* paper on “Ethical Exploration and the Role of Planetary Protection in Disrupting Colonial Practices” shoehorns a factually skewed mention of TMT into a discussion on space exploration that erases Hawaiian TMT supporters. This paper’s text was retained despite multiple requests that the authors omit or substantially modify these statements due to their marginalizing language.

¹⁹ We reiterate that the implications of this article do **not** necessarily compel CASCA to endorse a simple resumption to a full construction schedule irrespective of any other steps. Should TMT – as a part of the US ELT Program – be considered for federal funding through the National Science Foundation, additional consultation will be required before project completion as a part of the *National Environmental Protection Act* (NEPA) process. Additional measures to achieve some sort of resolution – including those available only within the power of the US federal government – may be helpful. Rather, the article simply requests that foreign institutions not impose an ahistorical, artificial framework for resolving this matter. Colloquially, “let Hawai‘i lead”.

Honolulu. Mr. King graduated cum laude from University of Hawai‘i School of Law in 2013 and clerked for Hawaii Supreme Court Justice Richard Pollack (2013-2014). Mr. King is the Executive Director of Imua TMT, a Native Hawaiian organization advocating for the construction of TMT on Maunakea.

King’s sixth great-grandfather, Kalaniho‘oulumokuiekai, was killed by Kamehameha I’s forces at the Battle of Nu‘uanu (1795); his daughter, Mahi, married Oliver Holmes who was appointed by Kamehameha I as Governor of O‘ahu. Mr. King’s namesake and great-grandfather Samuel Wilder King was first Native Hawaiian appointed as governor of Hawaii and successfully fought against the creation of Japanese internment camps in Hawai‘i during World War II. The family of his great-grandmother, Pauline Nāwahineokalai‘i Evans, served in the court of Queen Lili‘uokalani. Mr. King’s grandfather, Samuel Pailthorpe King, was a legendary federal judge who co-authored *Broken Trust*, a book exposing corruption at the largest Ali‘i Trust, Bishop Estate.

Wallace A. Ishibashi Jr. – is a *kānaka maoli* community member from Keaukaha, member of the Royal Order of Kamehameha I, and former East Hawaii commissioner for the Department of Hawaiian Homelands. He is also the cultural monitor on Maunakea, where he is tasked to literally “protect Maunakea”. He is a member of *Perpetuating Unique Educational Opportunities* (PUEO), a Hawaiian community organization supportive of science and education on Hawai‘i, including astronomy on Maunakea. A cultural practitioner from the lineage of Poli‘ahu on Maunakea, Mr. Ishibashi has conducted practices related to his family ‘*aumakua* on Maunakea.

Richard Ha - is a *kānaka maoli* community leader in Hilo and direct descendent of Kamahele Nui, who signed the *Ku‘e* petition protesting the annexation of Hawaii by the United States. He is the co-founder of PUEO. PUEO participated in the TMT contested case hearing in support of the observatory. He is also on the board of directors of *Sustainable Energy Hawai‘i*, which is dedicated to an economic, social, and overall environmental revival for Hawaii.

Kyla Pumehana Edison - is a *kānaka maoli* early career geologist and incoming PhD student at the Colorado School of Mines. She is originally from Kauai and graduated from the University of Hawai‘i-Hilo with a degree in geology. Ms Edison was recently a staff member of PISCES, an organization working to position Hawai‘i as a leader in space exploration while developing sustainable technologies. At PISCES, she lead basalt research in in-situ resource utilization (ISRU), investigating various methods for creating novel construction materials using volcanic basalt.

Makana Silva - is a *kānaka maoli* early career astrophysicist. He graduated with a degree in physics from the University of Hawai‘i-Mānoa in 2017 and is currently a graduate student in astronomy at The Ohio State University researching exoplanets and black holes. He was a speaker at the winter 2020 *American Astronomical Society* meeting session on *Hawaiian Perspectives* on the Thirty Meter Telescope.

Veronica Ohara – is a *kānaka maoli* advocate for Hawaiian culture and science, including astronomy, and has been involved in the TMT issue for the past 6 years. She was born on Oahu and grew up in Kaimukī, Kapahulu, and Kāne‘ohe. She is a graduate of the University of Hawai‘i-Mānoa and George Washington University, doing thesis work on Pahu, precontact art, and culture.

All authors sign on to this document in their personal capacity alone.

REFERENCES

- [1] Skidmore, W., et al. 2015, RAA, 15, 1945
- [2] Venkatesan, Begay, D., Burgasser, A., et al., 2019, arxiv:1908.02822
- [3] Kaluna, H., Neal, M., Silva, M., Trent, T., 2020, arxiv:2004.14136
- [4] *United Nations Declaration of the Rights of Indigenous Peoples* https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf
- [5] Canadian Astronomical Society, *Final report of the Canadian Astronomical Society’s 2020 Long Range Planet for Canadian Astronomy (LRP2020)* https://casca.ca/wp-content/uploads/2020/12/LRP2020_December2020-1.pdf
- [6] *Native Hawaiian consent needed for TMT*, Canadian group says, 2021, Honolulu Star-Advertiser, <https://www.staradvertiser.com/2021/05/19/hawaii-news/native-hawaiia-n-consent-needed-for-tmt-canadian-group-says/>

- [7] Malo, D., 1951, *Hawaiian Antiquities*, Dr. Nathaniel B. Emerson trans., Benice P. Bishop Museum Special Publication 2 2nd Ed.
- [8] McCoy, P., 1977, *Journal of the Polynesian Society* 86(2):233-244
- [9] Board of Land and Natural Resources, Hawaii, 2017, *Findings of Fact, Conclusions of Law and Decision and Order, Contested Case Hearing Re Conservation District Use Application (CDUA) HA-3568 for the Thirty Meter Telescope*
- [10] *Written and Direct Testimony, Chad Kalepa Baybayan*, 2017, Contested Case Hearing Re Conservation District Use Application (CDUA) HA-3568 for the Thirty Meter Telescope, <https://dlnr.hawaii.gov/mk/files/2016/10/WDT-Baybayan-C.pdf>
- [11] Daws, G., 1974, *Shoal of Time*, University of Hawai'i Press
- [12] Griffin, C. L., *The Last Stand*, Hana Hou, Issue 20.5: Oct./Nov. 2017, <https://hanahou.com/20.5/the-last-stand>
- [13] Kingdom of Hawai'i Constitution, 1840, <https://www.hawaii-nation.org/constitution-1840.html>
- [14] Kingdom of Hawai'i Constitution, 1852, <https://www.hawaii-nation.org/constitution-1852.html>
- [15] Kingdom of Hawai'i Constitution, 1864, <https://www.hawaii-nation.org/constitution-1864.html>
- [16] Kingdom of Hawai'i Constitution, 1887, <https://www.hawaii-nation.org/constitution-1887.html>
- [17] Queen Liliuokalani, *Hawaii's Story by Hawaii's Queen*, 1898, Boston: Lee and Shepherd
- [18] Ralston, C., 1985, *Early Nineteenth Century Polynesian Millenial Cults: The Case of Hawai'i*, *Journal of the Polynesian Society* 94(4):307-331
- [19] Maly, K., *Mauna Kea – Ka Piko Kaulana O Ka Aina*, Kumo Pono Associates, LLC, accessed at <https://dlnr.hawaii.gov/mk/files/2017/01/B.60-MK-Ka-Piko-Kaulana-o-ka-Aina.pdf>
- [20] University of Hawai'i, 2010, *Final Environmental Impact Statement: Thirty Meter Telescope (TMT) Project*, Volume 3
- [21] *Written and Direct Testimony, Wallace A. Ishibashi Jr.*, 2017, Contested Case Hearing Re Conservation District Use Application (CDUA) HA-3568 for the Thirty Meter Telescope, <https://dlnr.hawaii.gov/mk/files/2016/10/WDT-Ishibashi-W.pdf>
- [22] Lee, Brendan Kalei'āina, 2019, *Maunakea*, Ka Wai Ola, OHA Trustees messages, <https://kawaiola.news/trustees/maunakea/>
- [23] Van Dyke, J., 2008 *Who Owns the Crown Lands in Hawaii?*, University of Hawai'i Press
- [24] McGregor, D., Mackenzie, M., 2014, *Mo'olelo Ea O Na Hawai'i: History of Native Hawaiian Governance in Hawai'i*, prepared for the Office of Hawaiian Affairs, accessed at https://www.doi.gov/sites/doi.opengov.ibmcloud.com/files/uploads/McGregor-and-MacKenzie-History_of_Native_Hawaiian_Governance.pdf
- [25] Hanifin, P., W., 2002, *Hawaii Bar Journal*, 5(13):15
- [26] *Indices of Awards Made By the Board of Commissioners to Quiet Land Titles in the Hawaiian Islands*, 1929, accessed <https://evols.library.manoa.hawaii.edu/handle/10524/36023>
- [27] I Statute Laws of Kamehameha III, 1846, p. 76, Section III
- [28] *Naone v. Thurston*, 1856, Supreme Court of the Kingdom of Hawai'i
- [29] Civil Code, 1859, The Kingdom of Hawai'i, Section 432 accessed at https://www.hawaiiankingdom.org/civilcode/pdf/CL-Title_2.pdf
- [30] Silva, N., 2004, *Aloha Betrayed: Native Hawaiian Resistance to American Colonialism*, Duke University Press
- [31] *In the Matter of the Estate of His Majesty Kamehameha IV*, 1864, Supreme Court of the Kingdom of Hawai'i
- [32] *State of Hawaii v. Office of Hawaiian Affairs*, 2009, Supreme Court of the United States
- [33] *Delima v. Bidwell*, 1901, Supreme Court of the United States
- [34] *Texas v. White*, 1868, Supreme Court of the United States
- [35] *State v. Kaulia*, 2013, Supreme Court of the State of Hawaii
- [36] Kamakau, S., 1961, *Ruling Chiefs of Hawaii* (Revised ed.). Honolulu, Kamehameha Schools Press
- [37] Kuykendall, R., 1938, *The Hawaiian Kingdom: 1778-1854: Foundation and Transformation*, Honolulu, University of Hawai'i Press
- [38] University of Hawai'i, 2010, *Final Environmental Impact Statement: Thirty Meter Telescope (TMT) Project*, Volume 1
- [39] <https://hawaii247.com/2010/05/09/lingle-accepts-tmt-final-environmental-impact-statement/>
- [40] *Maunakea Management Board, Minutes*, 2010 May 19
- [41] <https://www.hawaii.edu/news/article.php?aId=3703>
- [42] *Mauna Kea Aina Hou vs. Board of Land and Natural Resources*, 2015, Supreme Court of the State of Hawaii
- [43] *In the Matter of Contested Case Hearing re Conservation District Use Application (CDUA) HA-3568 for the Thirty Meter Telescope at the Mauna Kea Science Reserve, Ka'ohe Mauka, Hamakua, Hawai'i, TMK (3) 404015:009*, 2018, Supreme Court of the State of Hawaii
- [44] *Pele Defense Fund v. Paty*, 1992, Supreme Court of the State of Hawaii

- [45] *Public Access Shoreline Hawai'i v. Hawai'i County Planning Commission*, 1995, Supreme Court of the State of Hawaii
- [46] *Ka Pa'akai O Ka 'Aina vs. Land Use Commission*, 2000, Supreme Court of the State of Hawaii
- [47] *Hawaii Administrative Rule, 13-5-30(c)*, accessed at <https://www.law.cornell.edu/regulations/hawaii/Haw-Code-R-SS13-5-30>
- [48] *Rice v. Cayetano*, 2000, Supreme Court of the United States
- [49] *Arakaki v. State of Hawaii*, 2002, Ninth Circuit Court of Appeals
- [50] *Senate Joint Resolution 19*, 1993, <https://www.congress.gov/bill/103rd-congress/senate-joint-resolution/19>
- [51] *Office of Hawaiian Affairs v. HCDCH*, 2008, Supreme Court of the State of Hawaii
- [52] *State of Hawaii v. Office of Hawaiian Affairs*, 2009, Supreme Court of the United States
- [53] *Fact-Checking Environmental Concerns About The Thirty Meter Telescope*, 2019, Civilbeat, <https://www.civilbeat.org/2019/08/fact-checking-environmental-concerns-about-the-thirty-meter-telescope/>
- [54] *Protesters Cloud TMT Discussion With False Claims, Threats*, Reyes, A., Civil Beat, <https://www.civilbeat.org/2019/07/protesters-cloud-tmt-discussion-with-false-claims-threats/>
- [55] *Threats Effective at Silencing Pro-TMT Hawaiians*, King, S., West Hawaii Today, <https://www.westhawaii.com/2019/08/13/opinion/my-tu-rn-threats-effective-at-silencing-pro-tmt-hawaiians/>
- [56] *Obscenity-laced Facebook Post Calls for Killing of Telescope Supporters*, accessed at <https://www.ilind.net/2015/04/24/obscenity-laced-facebook-post-calls-for-killing-telescope-supporters>
- [57] *Human remains placed at TMT site*, September 19, 2016, Hawaii Tribune-Herald, <https://www.hawaiitribune-herald.com/2016/09/19/hawaii-news/human-remains-placed-at-tmt-site/>
- [58] *Kia'i questioned: Viewers send in photos of what appears to be trash on Mauna Kea*, January 9, 2020, KITV News, <https://www.kitv.com/story/41544339/kiai-questioned-viewers-send-in-photos-of-what-appears-to-be-trash-on-mauna-kea>
- [59] *Native Hawaiian plants suffering due to demonstrators atop Mauna Kea, says DLNR*, September 12, 2019, KITV News, <https://www.kitv.com/story/41042164/native-hawaiian-plants-suffering-due-to-demonstrators-atop-mauna-kea-says-dlnr>
- [60] *Ex-Mayor Kim Violated Ethics Code On Mauna Kea, Board Says*, 2020, BigIslandVideoNews, <https://www.bigislandvideonews.com/2020/12/10/ex-mayor-kim-violated-ethics-code-on-mauna-kea-board-says/>
- [61] *Ethics Board rules Kim violated law in Maunakea case*, 2020, Hawaii Tribune-Herald, <https://www.hawaiitribune-herald.com/2020/12/10/hawaii-news/ethics-board-rules-kim-violated-law-in-maunakea-case/>
- [62] *E-mail triggers row over Hawaii telescope*, 2015, Physics World, <https://physicsworld.com/a/e-mail-triggers-row-over-hawaii-telescope/>
- [63] Swanner, L., *Mountains of Controversy: Narrative and the Making of Contested Landscapes in Postwar American Astronomy*, 2013, PhD thesis, Harvard University, <https://dash.harvard.edu/handle/1/11156816>
- [64] *Support grows for TMT on Hawaii island, statewide poll says*, May 28, 2020, Honolulu Star-Advertiser, <https://www.staradvertiser.com/2020/05/28/hawaii-news/support-grows-for-tmt-statewide-poll-says/>
- [65] *Kanaka Rangers: It's Time To Move Forward With Hawaiian Homesteads*, April 2, 2018, CivilBeat, <https://www.civilbeat.org/2018/04/kanaka-rangers-its-time-to-move-forward-with-hawaiian-homesteads/>
- [66] *Resources and Information on TMT on Maunakea*, 2019, CASCA website, <https://casca.ca/wp-content/uploads/2019/10/Resources-and-information-on-TMT-and-Maunakea-FINAL-3.pdf>
- [67] Adler, P., *Beyond the Standoff*, 2019, CASCA website, <https://casca.ca/wp-content/uploads/2019/10/Beyond-the-Standoff.pdf>

HB-2024

Submitted on: 2/18/2022 7:09:30 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Keola Chan	?Aha Kane	Support	No

Comments:

Aloha members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance,

Thank you for the opportunity to provide written testimony in SUPPORT of HB2024. The proper stewardship of Mauna a Wākea has long been debated with numerous Native Hawaiian, environmental and community groups raising concerns over the decades.

Formal reviews have validated the community's concerns. The Hawai'i State Auditor's Office released reports in 1998, 2005, 2014, and 2017 that were critical of the University of Hawai'i's (UH) stewardship of Mauna a Wākea . Most recently, the Department of Land and Natural Resources' "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan" found that the while UH's management of Mauna a Wakea had improved, it failed to timely approve administrative rules; failed to consult with the Native Hawaiian community on cultural resources issues; and failed to engage with the community, particularly the Native Hawaiian community, on education and outreach efforts.

HR33, HD1, aimed to address these longstanding issues by establishing a Mauna Kea Working Group (Working Group) to provide recommendations to develop a new governance and management structure for Mauna a Wākea.

As supporters of a healthy and protected Mauna a Wākea, we strongly urge you to pass HB2024 with the following amendments:

- Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report Ho'okikī Kānāwai, Kua'ā Kānāwai, Kai'okia Kānāwai, Kīho'iho'i Kānāwai;
- Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group's Report; and
- Add language that would require the University of Hawai'i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

In conclusion, the leadership of the House of Representatives declared a bold commitment to take steps towards economic, cultural and environmental justice. Your support of HB2024 will

make good on your commitments to your constituents, and Hawai‘i’s precious natural and cultural resources.

Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group: He lā hou kēia ma Mauna a Wākea. A new day has indeed arrived on Mauna a Wākea.

Mahalo,

Keola Chan, Executive Director

Testimony in **Opposition** to HB 2024 Maunakea Authority
Cindy Pacheco
P.O. Box 368
Holualoa, HI 96725

Dear Representatives:

Please accept this testimony in opposition to HB 2024 establishing the Maunakea Stewardship Authority. My name is Cindy Pacheco and I am the Vice President and owner of Hawaii Forest & Trail. I have lived in Kona where I have raised my children and grandchildren for 45 years. I am proud to have founded a business with my husband that puts our 54 employees first and continues our give back programs to our island community in meaningful and valuable ways.

For nearly 25 years, we have operated guided nature tours on Mauna Kea and as such, understand the great responsibility that comes with that endeavor. We honor the systems that are in place to protect this fragile ecosystem and special place of cultural significance. We understand that we are visitors to the Mountain and appreciate that the lessons of the land continue to unfold to us each time we traverse its slopes. We are respectful, our guests are managed and never away from our Interpretive Guides. The 2 places on the mountain that we access, next to the telescopes for 30-45 minutes during sunset and by the visitor center for an hour during stargazing, are the only areas we go on the Mountain. All 8 operators abide by the same rules that allow us to travel safely and within the confines of a very limited area.

Our 29 year old business has rebounded from many outside events, most recently the 2018 Volcano disruption, 2019 Mauna Kea closure and 2020 Pandemic shutdown. Through each challenge we have learned to navigate the rough waters to rebuild. However, the last few years combined have taken its toll and our revenue and staffing is half of what it was prior to the 2020 closure. These constant uncertainties do not allow for long term planning or investing which any healthy business needs to maintain and grow. Throwing up another blockade like prohibiting Commercial use on Mauna Kea will only exacerbate already challenging times for the hundreds of families employed by the 8 companies on the mountain. Not only is this Bill extremely divisive, there has been no research done to understand the economic consequences of these draconian measures. These consequences are very real and affect the ability of the people the Bill proposes to help by taking away their employment and disrupting their lives, causing yet another movement of Hawaiians off the islands to find better living conditions.

In its call for "...a new governance and management structure for Mauna Kea that collaboratively engages with all stakeholders...". House Bill 2024 demonstrates a complete lack of collaborative effort and dismisses an entire working group of Stakeholders who represent hundreds of people and who have funded several key functions on the Mountain including the Ranger Program, Environmental Monitoring and Support Services at the Visitor Information Center. This Bill does not help Hawaiian people and must not pass. Mahalo for your consideration.

HB-2024

Submitted on: 2/18/2022 8:29:21 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lori Collins	Kundalini of Kona Inc.	Oppose	Yes

Comments:

Dear legislators,

I am writing in opposition to HB2024. While I support the oversight and protection of Mauna Kea I cannot support a bill that will end the livelihood of more Big Island residents. After a devastating year of Covid I have seen many businesses fail. I have seen friends leave the island due to lack of financial opportunity. Many people feel Hawaii does not present hope.

My business provides hot meals for Hawaii Forest and Trail. While my company is small, I also also provide business to companies like Sysco and locally started businesses like Honaunau Market and Christine's Deli. These companies are also impacted if tours to the summit were to end. As would the livelihoods of other tour companies and all of businesses they contract with.

I also support tour companies like Hawaii Forest and Trail because they provide safe passage to the summit. They share information that ensures proper use of the land and of the cultural significance of Mauna Kea. And they protect the land by doing things like providing meals in reusable thermoses instead of waste-producing plastic containers.

If we can find a way for Mauna Kea to be shared responsibly I believe it could coexist with businesses in a way that actually promotes Hawaiian culture, the safety of visitors, and the livelihood of our residents and state.



February 17, 2022

TO: Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance

FR: Kanaeokana Network

RE: IN SUPPORT OF HB2024 RELATING TO MAUNA A WĀKEA MANAGEMENT

Aloha Representatives Rep. David A. Tarnas, Chair; Rep. Patrick Pihana Branco, Vice Chair; Rep. Mark M. Nakashima, Chair; Rep. Scot Z. Matayoshi, Vice Chair: and Rep. Sylvia Luke, Chair; and committee members,

Kanaeokana is in support of H2024 relating to Mauna a Wākea management by creating a new management authority to replace the current managing entity. Over the past 50 years, the University of Hawai'i has proven incapable of caring for Mauna a Wākea. With this measure, we are hopeful this era of mismanagement will come to an end. The proper stewardship of Mauna a Wākea has long been debated with numerous Native Hawaiian, environmental and community groups raising concerns over the decades and formal reviews have validated these concerns.

As supporters of a healthy and protected Mauna a Wākea, Kanaeokana strongly urges the passing HB2024 with the following amendments:

- Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report Ho'okikī Kānāwai, Kua'ā Kānāwai, Kai'okia Kānāwai, Kīho'īho'ī Kānāwai;
- Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group's Report; and
- Add language that would require the University of Hawai'i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

We appreciate the bold commitment the House of Representatives has made to take steps towards economic, cultural and environmental justice. Your support of HB2024 will make good on your commitments to your constituents, and Hawai'i's precious natural and cultural resources.

Mahalo,

Kanaeokana

advocacy@kanaeokana.net

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HB-2024

Submitted on: 2/18/2022 8:48:33 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Glory Arnott	Arnott's Lodge	Oppose	No

Comments:

We respectfully submit the following testimony on this matter.

Our company has provided tours and Kupuna access to Mauna Kea for over 30 years without accident, we have seen interest in Mauna Kea by activist groups go from none in 1990, when we cleared Lake Waiau of a half ton of trash, to high interest today.

We have seen the Astronomy community go from Rambo to highly responsible.

We have seen OMKM and now CMS go from divisive and poorly run to having a professional in charge that has the respect of the governed.

We have seen Greg Chun and the UH Board of Regents reach out repeatedly for public input and come up with a plan that has community support.

Now you want to throw this good work away and ban commercial activity, which amounts to tours, consolidating the equivalent of 7 cars into every van

driven by highly experienced drivers who also give living commentary on the cultural aspects of Mauna Kea as they go.

And what of the Japan National Large Telescope, it was found that King David Kalakaua and the Emperor of Japan exchanged honorifics, so will Japanese also be banned from visiting their telescope..??

By implementing reservations as done at Hanauma Bay and Haleakala and ramping up per head charges for commercial Operators to at least the same as charged at Hawaii Volcanoes National Park, a stream of income can be developed to make tourism self-sustaining and reduce numbers to a manageable level.

Many cultural groups do not have the vehicles , oxygen or the means to go up Mauna Kea and come to us for help....by eliminating commercial Operators you are actually diminishing cultural access especially to young people....where we get dozens of requests each year.

The combined remaining 5 or six commercial operators have invested millions of dollars and 30 years in selecting appropriate equipment and training guides who in turn provide income for a wide range of community income such as accomodation,gas, mechanics, food and beverages, van purchases from local dealers, reservations staff and even flights from Oahu and Maui just to do Mauna Kea Tours.

While Mauna Kea may be a Cathedral to some, even the world's finest Cathedrals are available to tourists to visit so banning commercial from above 9500ft makes no sense specially as there has been ZERO impact from 32 years to date.



TESTIMONY IN SUPPORT OF
HB 2024, RELATING TO MAUNA KEA
Saturday, February 19, 2022

Honorable Chairpersons Rep. David Tarnas, Chair, Water & Land, Rep. Mark Nakashima, Judiciary & Hawaiian Affairs, Rep. Sylvia Luke, Finance

Aloha kākou,

Please accept this testimony in support of HB 2024, Relating to Mauna Kea. The general purpose of Save Our Sherwoods is to protect and preserve the historical, cultural and natural resources of Waimānalo, neighboring communities and across the state of Hawai‘i.

We commend the 15 member working group for their efforts over the past year in working together towards a resolution, which is reflected in HB 2024.

Formal reviews have validated the community’s concerns. The Hawai‘i State Auditor's Office released reports in 1998, 2005, 2014, and 2017 that were critical of the University of Hawai‘i’s (UH) stewardship of Mauna a Wākea . Most recently, the Department of Land and Natural Resources’ “Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan” found that while UH’s management of Mauna a Wakea had improved, it failed to timely approve administrative rules; failed to consult with the Native Hawaiian community on cultural resources issues; and failed to engage with the community, particularly the Native Hawaiian community, on education and outreach efforts.

This bill establishes a new agency to take proper and timely care of Mauna Kea, also known respectfully as **Mauna A Wākea** which reflects its creation and genealogy. **The report states that the mauna should be formally referred to as Mauna A Wākea. These corrections should be made throughout the bill.** The bill intends to establish Hawaiian natural laws called kānāwai as the foundational principles which guide the care of the mauna.

As supporters of a healthy and protected Mauna a Wākea, we strongly urge you to pass HB2024 with the following amendments:

- Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report Ho'okikī Kānāwai, Kua'ā Kānāwai, Kai'okia Kānāwai, Kīho'īho'ī Kānāwai;
- Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group's Report; and
- Add language that would require the University of Hawai'i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

The Mauna Kea - Mauna A Wākea Stewardship Authority legislation will establish a new paradigm for managing and caring for our Wahi Pana, significant cultural, historic and ecologically important places in Hawai'i based on Hawaiian cultural values and principles. Also of importance is the need for Native Hawaiian and community participation in the formation and ongoing oversight of these entities and these special places. It is our legacy and our kuleana, received from our kupuna and passed down to our generations to come.

Your support of this bill and addition of these key pieces of legislation is greatly appreciated.

Mahalo,



Kū'ikeokalani Kamakea-Ohelo
Pelekikena (Board President)

Email: saveoursherwoods@gmail.com

Website: www.saveoursherwoods.com

Facebook: Save Our Sherwoods

HB-2024

Submitted on: 2/18/2022 8:52:07 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lehua Ah Sam	Protect Pololu Project	Support	No

Comments:

Aloha,

Our group is Protect Pololu Project whose mission is to protect the sacred cultural and natural resources of Pololu Valley and the adjacent wahi pana (storied places). Our group is made up of lineal and cultural descendants of Pololu area and community members of N. Kohala.

Our project supports HB 2024 because we strongly believe that the University of Hawai'i has failed as leaders in stewardship of Mauna Kea. No single government agency should have the license and control over such a sacred and special natural and cultural resource of Hawai'i. Furthermore, most of Mauna Kea is a part of our ceded land trust, and as beneficiaries of this ceded land trust, we strongly feel that our trust has been betrayed by the University of Hawai'i.

This bill further defines human engagement on Mauna Kea. Unrestricted visitors to our wahi pana is causing irreversible damage to cultural and natural resources. The number of rescues for visitors in kapu spaces, like Mauna Kea and Pololu is increasing every year, putting our rescue family at risk, and costing our community hundreds of thousands of dollars annually in search and rescue costs. We must do better at restricting visitors to these places, and this bill is a great attempt to address this issue. We must make our 'āina priority over the visitor experience. We must reclaim our sacred landscapes for the perpetuity of Hawai'i.

There are details in the bill that we feel need to be amended or worked on within our larger community, but the intent of the Bill to remove UH as the license holder of Mauna Kea, and the intent to look at our mauna holistically rather than piece-mealed is necessary. Mauna Kea needs to be protected and preserved for the all of us of Hawai'i, and this is a good first step.



'Ahahui o nā Kauka

677 Ala Moana Blvd., Suite 1015

Honolulu HI 96813

Phone 808.548.0270

E-mail huikauka@gmail.com

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Testimony Presented Before the Senate Committees on
Water & Land,

Judiciary & Hawaiian Affairs, and Finance

Saturday, February 19, 2022, 9:00 am

State Capitol, Conference Room 430

By

Dr. Noa Emmett Aluli on behalf of the

'Ahahui o na Kauka

IN SUPPORT of HB 2024

Aloha Chair Tarnas and Vice-chair Patrick Branco and members of the Committee on Water & Land, Chair Mark Nakashima and Vice-chair Scot Matayohsi and members of the House Committee on Judiciary & Hawaiian Affairs and Chair Sylvia Luke and members of the House Committee on Finance Committee. I am Dr. Noa Emmett Aluli and on behalf of the 'Ahahui o nā Kauka. We stand in support of HB 2024 Relating to Mauna A Wākea, with suggested amendments.

Ahahui o nā Kauka, the Association of Native Hawaiian Physicians, established in 1998 to *Champion Superior Health Care for all Native Hawaiians*, is **IN SUPPORT of HB 2024**, which would establish a new authority for the stewardship of Mauna A Wākea, with the authority to develop a use plan, restrict commercial activities and more.

Following our first visit to Mauna a WāKea in January 2001, our membership made a huaka'i to Mauna a Wakea to educate ourselves on what is important to our culture, to the Hawaiian community, and the world at large in the pursuit of health and well-being. As Kānaka 'Ōiwi and medical scientists, we support the protection of Mauna A Wākea, and of all sacred places. We understand that wahi kapu, sacred places, are essential to the health and well-being of our people.

As part of the Pacific Rim Indigenous Doctors Congress (PRIDoC) in 2016 and again in 2018 we unanimously took a position to support the Kia'i of Mauna A Wākea to protect the Mauna from the desecration.

Creating a dedicated stewardship entity, as proposed in HB 2024, will assure wise management that is values- and place-based, and hopefully preclude conflicts of interest that arise with the current managing entity.

The 'Ahahui o nā Kauka has collaborated with the Edith Kanaka'ole Foundation (EKF) in the past and we, therefore, have the utmost confidence that EKF will maintain the Hawaiian cosmology of Mauna A Wākea, assuring that is protected and preserved as a precious cultural and natural resource. This foundation has worked tirelessly to educate our Lāhui Hawai'i

and those who steward Hawaiian lands in the ceremonies and protocols that are essential in the management of sacred lands, calling upon the nature deities that are the elemental forms in our sacred landscapes.

In addition, we suggest the following amendments to HB 2024:

1. Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report - Ho‘okikī Kānāwai, Kua‘ā Kānāwai, Kai‘okia Kānāwai, Kīho‘iho‘i Kānāwai;
2. Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group’s Report; and
3. Add language that would require the University of Hawai‘i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group:

He lā hou kēia ma Mauna a Wākea.
A new day has indeed arrived on Mauna a Wākea.

Mahalo for the opportunity for the ‘Ahahui o nā Kauka to testify in support HB 2024.

Me ke aloha no Mauna a Wākea.

and those who steward Hawaiian lands in the ceremonies and protocols that are essential in the management of sacred lands, calling upon the nature deities that are the elemental forms in our sacred landscapes.

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3. Add language that would require the University of Hawai‘i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group:

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A new day has indeed arrived on Mauna a Wākea.

Mahalo for the opportunity for the ‘Ahahui o nā Kauka to testify in support HB 2024.

Me ke aloha no Mauna a Wākea.



Kamehameha Schools®

House Committee on Water and Land
House Committee on Judiciary and Hawaiian Affairs
House Committee on Finance

Time: 9:00 a.m.
Date: February 19, 2022
Where: Conference Room 430

TESTIMONY

By Kaeo Duarte
Vice President, Community & 'Āina Resilience,
Kamehameha Schools

RE: **HB 2024, Relating to Mauna Kea**

Aloha e nā Luna Ho'omaluku Luke, Tarnas, a me Nakashima, nā Hope Luna Ho'omaluku Branco a me Matayoshi, a me nā lālā o nā Kōmike.

Kamehameha Schools **supports** HB 2024, which establishes the Mauna Kea Stewardship Authority as the sole authority for management of state-managed land on Mauna Kea.

Mauna a Wākea is a place of great ecological, historical, and cultural significance for Hawai'i and for Native Hawaiians. The proper management of Mauna a Wākea's rich natural and cultural resources has been a source of continued community concern and controversy. House Resolution No. 33, HD1 (2021) established the Mauna Kea Working Group to develop recommendations for a new governance and management structure for Mauna a Wākea that collaboratively engages with all stakeholders, particularly the Native Hawaiian community. With varying views represented, we applaud the efforts of the Working Group for having the necessary, courageous conversations over the course of the past year. We recognize their recommendations as a milestone toward better management of Mauna a Wākea in the future.

As one of the Working Group's recommendations, we believe establishing a new Mauna Kea Stewardship Authority is an appropriate next step, creating a venue where diverse expertise and perspectives and community voices, particularly those from the Native Hawaiian community, are meaningfully elevated in the decision making process. We recognize the value of such expertise and community input as we strive for pono stewardship of the 297,534 acres that KS owns on Hawai'i, as well as our remaining lands throughout the pae 'āina.

Furthermore, it is a goal of our organization to educate 'ōiwi leaders who are empowered to solve the issues of our people and communities. As such, while no process is perfect, in creating this venue, we have faith and trust that the leaders in our community will rise to carry this great kuleana with the same aloha and na'auao that underline the Working Group's recommendations. We urge that spirit continues through the formation of the Mauna Kea Stewardship Authority and implementation of the Working Group's other recommendations.

For these reasons, we ask that you **support** HB 2024.

Founded in 1887, Kamehameha Schools is an educational organization striving to restore our people through education and advance a thriving Lāhui where all Native Hawaiians are successful, grounded in traditional values, and leading in the local and global communities. We believe that community success is

individual success, Hawaiian culture-based education leads to academic success and local leadership drives global leadership.

Hānai i ke keiki, ola ka lāhui. *Nurture the child, and the people thrive.* **Please advance this measure.**



Environmental Caucus of The Democratic Party of Hawai'i

To: The Honorable David A. Tarnas, Chair
The Honorable Patrick Pihana Branco, Vice Chair
Members of the Committee on Water & Land

The Honorable Mark M. Nakashima, Chair
The Honorable Scot Z. Matayoshi, Vice Chair
Members of the Committee on Judiciary and Hawaiian Affairs

The Honorable Sylvia Luke, Chair
Members of the Committee on Finance

Re: **HB 2024 – RELATING TO MAUNA KEA**
Hearing: Saturday, February 19, 2022, 9:00 a.m., Conference Room 430 and Via
Videoconference
Position: Opposition

Aloha, Chairs Tarnas, Nakashima, and Luke; Vice Chairs Patrick Pihana Branco and Scot Z. Matayoshi; and Members of the Committees on Water and Land, Judiciary and Hawaiian Affairs, and Finance:

The Environmental Caucus of the Democratic Party of Hawai'i opposes HB2024 and requests that this measure be DEFERRED by your Committees. This bill would establish the Mauna Kea stewardship authority as the sole authority for management of the state-managed lands on Mauna Kea.

For too many years, the summit of Mauna Kea has been mismanaged by the University of Hawaii, and we all agree that that regime needs to change. Management must be more oriented toward the Native Hawaiian community, and funding must be fairly allocated to them.

One would think, however, that a 23-page bill such as this would try to resolve the issue of the Thirty-Meter Telescope. But it does not. It merely kicks the can further down the road.

The Environmental Caucus opposes this measure because it calls for the diminution of a public land trust asset, the proceeds of which are a 20% Constitutional mandate to OHA for the betterment of the conditions of native Hawaiians. Such uses by OHA may include education and vocational training, health care, employment, housing, small business loans, and other “quality of life” betterments of the conditions of native Hawaiians. OHA should not be deprived of their fair share of the public land trust proceeds by the transfer of management and control to a sovereign Native Hawaiian entity upon its recognition by the United States and the State of Hawaii.



Environmental Caucus of The Democratic Party of Hawai'i

February 19, 2022
Page 2

Mahalo for this opportunity to testify. Please DEFER this bill.

Melodie Adajia

Co-Chair, Environmental Caucus of the Democratic Party of Hawai'i



Testimony in Opposition to HB 2024 -Re: Maunakea 2-18-22

To: Committee's: Water & Land, Judiciary & Hawaiian Affairs, Finance

Date Hearing: Saturday February 19th, 2022

Room: 430

From: Mililani B. Trask, Convenor Nakoa Ikaika Kalahui Hawaii & Wahine Apapalani Practitioners/Trask Ohana

Aloha Legislators,

Wahine Apapalani (WA) are cultural practitioners & members of the Trask Ohana have submitted testimony on Maunakea concerns for years under this title and previously under NaKoa Ikaika KaLahui Hawaii. We have participated in Maunakea consultations for years, two of our Kupuna are currently facing criminal charges and were arrested with other Kupuna on Maunakea two years ago while trying to access the Mauna to pray & worship.

We incorporate, by reference previous testimony submitted to the State, including the Saiki Working Group created pursuant to HR 33 (2021) and prior testimony including but not limited to: 1) Testimony of Mililani B. Trask, Expert Witness in trial of Joseph Kualii Lindsey Camaro dated October 2016 to Judge Rikki Mae Amano; 2) Testimony of Mililani B. Trask to UHAR Re: Proposed Rules, dated September 28, 2018; Submittal of Wahine Apapalani on the Maunakea CMP dated October 10, 2020 and the Response of Wahine Practitioners to UH Re: SSFM dated February 28, 2021.

Nearly 30 years ago, members of WAHINE APAPALANI & the ROK built the ahu located at Hale Pohaku & have worshipped there & tended the ahu since that time.

For years Hawaiians seeking to preserve & protect Mauna Kea have requested that the BLNR & State follow State law by adopting Administrative Rules for the Mauna. Several requests have been made in direct testimony and through written correspondence of Mililani B. Trask and other Hawaiian practitioners seeking to exercise rights defined & acknowledged in Article XII Section 7 of the Hawaii State Constitution and the First Amendment of the U.S. Constitution. No response has ever been received to these requests.

1. Background & Politics of HR33 (2021) & HB 2024:

Late in the 2021 Legislative Session, WA & other Hawaiian practitioners learned that Scott Saiki was introducing a measure to create a political "working group" "to recommend a 'quick fix' for the Maunakea problem. Saiki, Ige, the DLNR and "Science Community" did not want to allow Hawaiians to participate in the political process, so delayed passing HB33 until the last weeks of the 2021 Session. This effectively prevented Hawaiians from addressing our first amendment Constitutional & Human Rights and participating in the Political process that resulted in passage of HR 33 & and the appointment of a few people by Saiki & the Democrats to the exclusion of all other Hawaiian practitioners.

2. HB 2024 provides no solutions, no meaningful change, no protective measures for Maunakea's environmental or cultural resources, no acknowledgment of Hawaiian Cultural & Constitutional Rights and no financing to implement any meaningful change. It is SHIBAI. SHIBAI BRINGS FORTH BACHI.

On January 27, 2019, U.S. Senator [Mazie Hirono](#) (D-H) stated in a fundraising email, "Trump's presidency has been such shibai--**that's the Hawaiian word for hypocritical nonsense**--that I can hardly stand it." See: DNC.org / Senator Mazie Hirono email dated 01/27/19.

BACHI means.... "Divine punishment, retribution, curse..."; see Nihongo Master.com

3. A better way forward: Follow the Constitutional and Statutory laws applicable to Hawaiian Rights, Ceded Lands Management in HRS Chapter 171.
 - a. Implement Hawaii Revised Statutes section 171-6-15 which imposes penalties and fines for illegal uses of the Mauna specifically exempts Hawaiians engaging in cultural practices. It states ... "No person shall be sanctioned pursuant to this section for the exercise of native Hawaiian gathering rights and traditional cultural practices as authorized by law or as permitted by the department pursuant to article XII, section 7, of the Hawaii state constitution".
 - b. Implement Act 132 passed by the Legislature in 2009 states which states... "Access for traditional and customary native Hawaiian cultural and religious purposes shall be accommodated",
 - c. Implement (HRS. Chapter 171) which requires that State lands be leased at fair market value as determined by appraisal.
 - d. These sections of the H.R.S. apply directly to Hawaiian uses of Maunakea but have never been implemented. To date, there are still no protections in place to protect Hawaiian Rights to worship under the U.S. Constitution or State Constitution. Protection of these rights cannot be entrusted to private sector Lessees, Commercial Science users or Commercial tour groups.
4. **The proposed new management regime for Maunakea excludes Hawaiians, our cultural & religious & gathering practices and the special need to protect sacred areas from commercial and recreational uses. The "political appointees" now identified and empowered with management authority over the Mauna are not capable of overseeing Hawaiian religious &/or cultural uses. There needs to be established an oversight authority comprised solely of Hawaiian practitioners with a demonstrated record of Maunakea affiliations. There needs to be created a Cultural Practitioners Review Board of 7 members, that has veto power over any & all decisions relating to Maunakea uses & developments, whether commercial or Hawaiian (cultural) to ensure the rights of Hawaiians are accommodated.**

There are many Hawaiian groups that have years or experience on the Mauna. They have participated in Hearings, filed & litigated Contested Cases.

The 7 Hawaiians on the Maunakea Cultural Practitioners Review Board (MCPRB) should include:

- 1) A representative of the Royal Order of Kamehameha (ROK) Hawaii Island. The ROK has a long history of constructing & maintaining the ahu on the summit and leading & sponsoring Hawaiian religious ceremony on the Mauna;
- 2) A representative of Maunakea Anaina Hou, Hawaiian practitioners who filed the Contested cases with ROK & other individuals, and who with the RPK proposed years ago, changes to the management regime;
- 3) A representative of Kahea, the Hawaiian Environmental Alliance, which has a long history of monitoring activities on the Mauna and ensuring that environmental laws & protections are complied with.
- 4) A representative of the Alii Lineal Descendants with cultural affiliations to the burial caves on the Mauna who is designated by the Alii ohana including Kekaulike Kawanakoa,
- 5) 3 Traditional Hawaiians with a history of gathering on the Mauna in the following ways :1) a Hawaiian water gatherer, 2)) a Hawaiian seed gatherer, 3) a Hawaiian pohaku/stone gatherer.

The 7 members of the MCPRB should be compensated at the same rate as Gregory Chun, Ph.D., the Executive Director, UH Hilo Center for Maunakea Stewardship. In addition, they shall be funded an annual budget of not less than \$250,000.00 paid from the revenues which commercial users pay pursuant to the fair market appraisal for their annual lease (chapter 171 HRS). They shall serve for a period of 4 years and shall be designated by their respective organizations.

The MCPRB should have exclusive jurisdiction over all protocols governing cultural uses of the Mauna and should be required to host Statewide consultations with Hawaiians prior to establishing protocols.

- 5. Sole Source Contract for Hawaiian Cultural Research & Archival Historic & Cultural Expertise on Maunakea** - The MCPRB, DLNR & Science should retain the services of a historic archivist and researcher with expertise on Maunakea and a bi-lingual Hawaiian-English background. This contract should be a sole source contract and should be awarded to KumuPono Associates of Hilo. KumuPono researched & authored the definitive study and ethnography of Maunakea. Its multi volume report is posted on the Maunakea website (DLN & Institute for Astronomy). They shall be compensated at their hourly rate, and contracted facilitate, archive, report and preserve all Data re: Maunakea including science research, environmental data, the Mauna Preservation Plan and its implementation and all other data pertaining to the Mauna & its management.

Submitted by:



Mililani B. Trask, Trask Ohana

This new arrangement in actuality will only replace the previous effort (known as the Kahuna of the Mauna/ Kahu Ku Mauna - KKM) of the State of Hawaii & UH. The KKM is defunct and its appointed Kahuna, Chad Babayan is deceased. The record reflects that Babayan's non-profit was the recipient of a 'gift' of several thousand dollars from the Japanese when they moved for construction of their telescope years ago. After accepting the gift, Babayan was named the Kahuna and the Kahu Ku Mana was created.

If this political shibai proceeds, there will be more arrests and no solution.

1. A Better way Forward: Stop the Shibai & Facilitate Hawaiian Human Rights. (Pay the appraised rent as required by law, stop new construction & decommission & remove the old telescopes, respect & accammodate Hawaiian rights set forth in State, Federal & Human Rights law, and install a Hawaiian Practitioner Board with authority to review and either approve or deny any new construction, commercial or other use on the Mauna).

The Kahoolawe Commission was created by a federal court decision. Do you really want another Federal Law case? The 400 million dollars was spent on Kahoolawe costs (hotels, helicopter rides, per diem payments etc.) but the Aina was never cleaned up and the sacred Wahi Pana destroyed by U.S. bombs, were never reconstructed!!!! While there is no doubt that Hawaiians can still bring litigation in Federal District Court, the purpose of this effort (HR33) is supposed to be resolving conflict and addressing resolving the problems.

Hawaiian practitioners are excluded and have always been excluded from the Maunakea State & Commercial oversight bodies. **The only way to ensure that commercial & State mismanagement ceases is to designate a Hawaiian practitioner body with final approval over all uses on Maunakea. This means power to veto &/or disapprove & halt development & commercial uses of the Mauna.**

Maunakea is ceded land, hence it belongs to the public and native Hawaiians. The State & Federal Governments cannot create a new religious order (Kahu Ku Mauna) nor can they regulate, terminate, or dictate Hawaiian religious & cultural practice including our right to worship the Akua.

There is a simple way to identify the real Hawaiian practitioners, review the evidence and take our word for it, based on the tangible record the State has. There have been dozens of hearings, meetings & consultations on Maunakea over the years. Wahine Apapalani have filed testimony relating to our uses and practices on Maunakea for years. Our testimony verifies that we are practitioners.

There are others who are self-identified by their own testimony as bonafide Hawaiian cultural practitioners. They include:

1. The Hawaii Island Royal Order of Kamehameha, (ROK)
2. Maunakea Anaina Hou,
3. Wahine Apapalani
4. Kumu Michael Lee & his Haumana
5. Kumu Leinaala Heine and Halau Na Pualei O Likolehua

There are many other Hawaiian cultural practitioners including Hawaiian hunters who have received permits from the State DLNR for hunting. There are other Hawaiians who have utilized the Mauna for Cultural Astronomy and for picking & gathering kuni stone & mamane seeds.

The State has these data, but continues to act in bad faith pretending that all Hawaiians who worship & engage in cultural practice are criminals.

The Hawaiian Cultural Oversight Committee needs to have Final approval authority and veto power over all activities and development determinations on the Mauna. If not, the UH & State's long record of racist political activities & decisions will continue.

In addition, the following protective measures need to be implemented:

- e. A Preservation Plan for the entire Mauna needs to be created & implemented (as per State processes, by RFP based on experience etc.) and a biannual Budget allocated by the UH, Institute for Astronomy and paid for by commercial user of the Mauna. The plan should include the removal of invasive species and propagation of endemics & removal of trash;
- f. Commercial tours should be prohibited in all areas of cultural religious significance Including but not limited to: the Puu of the Mauna (tended by the Royal Order of Kamehameha), all heiau, Lake Waiau, the Wahine Apapalani Ahu (behind the Visitor Center), the Ahu utilized by the Maunakea Rangers (across the street from Visitor Center) and all other geophysical sites on the Mauna identified by Hawaiian cultural practitioners based on Hawaiian response to a survey of cultural uses conducted by OHA;
- g. The protection of sacred burial caves and the recognition of the Hawaiian lineal descendants with cultural affiliations to these areas including Princes Kekaulike Kawanakoa;
- h. Removal of trash and science opala from the Mauna, including deconstruction of telescopes;
- i. Criminal Prosecution of persons, including the employees of the Institute for Astronomy who have vandalized the ahu on the Mauna, and reconstruction of the Ahu under the supervision of the ROK with financing paid by the University and DLNR;

- j. Drafting of Protocols that will be binding on UH, Commercial Users, Institute for Astronomy that will prohibit their ongoing destruction of cultural resources;
- k. **Implement Hawaii Revised Statutes section 171-6-15 which imposes penalties and fines for illegal uses of the Mauna specifically exempts Hawaiians engaging in cultural practices. It states ...“ No person shall be sanctioned pursuant to this section for the exercise of native Hawaiian gathering rights and traditional cultural practices as authorized by law or as permitted by the department pursuant to article XII, section 7, of the Hawaii state constitution”;**
- l. **Implement Act 132 passed by the Legislature in 2009 states which states... “Access for traditional and customary native Hawaiian cultural and religious purposes shall be accommodated”;**
- m. **Implement (HRS. Chapter 171) which requires that State lands be leased at fair market value as determined by appraisal. It provides that lease rental cannot be waived for any commercial venture for longer than 1 year.**

Signed:



Mililani B. Trask, Practitioner

in behalf of Wahine Apapalani, Na Koa Ikaika KaLahui Hawaii,
& the Trask Ohana including....

Kumu Onaona Trask,
Lakea Trask-Batti,
Kalae O'laa Trask,
Mililani Trask-Batti,
Michael Trask,
Hulali & Kaiana Trask & Ohana,
Kaoi Kualii,
Kuulei Kealoha Cooper

HB-2024

Submitted on: 2/18/2022 3:42:21 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Justin Potter	Hawaii Forest & Trail	Oppose	No

Comments:

Aloha,

My name is Justin Potter, and I have been a guide on Maunakea with Hawaii Forest & Trail since 2017. I would like to inform all agencies the positive role we play on the mountain by providing safely guided tours into rare, fragile habitats under very tightly controlled conditions that helps to reduce traffic and incidents on the mountain while educating visitors about Hawaii's native culture and fragile ecosystems.

It would have a devastating impact as far as financially. My bills would not be able to be payed, my rent would not be covered, not to mention food. Trying to find another job with the benefits I have right now is near impossible in a state where everything is going up in price. Mahalo for your consideration



**HB2024
RELATING TO MAUNA KEA**

House Committee on Water & Land; House Committee on Judiciary & Hawaiian Affairs;
and House Committee on Finance

February 19, 2022

9:00 AM

Videoconference

The Council for Native Hawaiian Advancement (CNHA) **STRONGLY SUPPORTS** HB2024, which proposes a comprehensive overhaul of the state's long-broken management structure for Mauna a Wākea by placing the well-being of the mauna itself at the center of our stewardship of this special place. We also request an amendment to clarify that individuals exercising their traditional and customary Native Hawaiian rights on the mauna are not unduly burdened by this bill.

The State of Hawai'i's nearly 50 years of mismanagement of Mauna a Wākea is well-documented. The State Auditor issued four reports critical of the state's management of Mauna a Wākea. The 1998 audit report was the most scathing, finding that the University of Hawai'i's focus on telescope construction, came at "the expense of neglecting the site's natural resources."

HB2024 would vastly improve by the state's stewardship of Mauna a Wākea by:

- removing UH from the management framework for the mountain;
- establishing a new stewardship entity solely focused on the care of the mauna and whose voting members will reflect the Native Hawaiian community and the needs of the mountain;
- establishing culturally based guiding operational values and principles for the new stewardship entity; and
- requiring the new stewardship entity to develop a framework to limit astronomy development on the mauna.

CNHA does express concern that the bill's application requirements for recreational users (see lines 4-7, page 18) could be misinterpreted to also apply to individuals accessing the mauna to exercise their constitutionally protected Native Hawaiians rights. To address this issue, we propose amending HB2024 by replacing the provision "(2) Protect native Hawaiian rights" found on line 18, page 12, with the following:

"(2) Protect traditional and customary native Hawaiian rights, as set forth in the state constitution, and not unduly burden individuals exercising such rights;"



In closing, CNHA urges the committees to PASS HB2024. Mahalo nui loa for this opportunity to provide testimony on this measure.

Respectfully,

J. Kūhiō Lewis, CEO

Council for Native Hawaiian Advancement

About Council for Native Hawaiian Advancement

CNHA is a member-based 501(c)3 non-profit organization with a mission to enhance the cultural, economic, political, and community development of Native Hawaiians. For more information, visit www.hawaiiancouncil.org/.



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**House Committee on Water and Land
House Committee on Judiciary and Hawaiian Affairs
House Committee on Finance
Saturday, February 19, 2022 9:00 a.m.**

**Testimony by:
Randolph Moore, Chair, Board of Regents**

H.B. No. 2024 – RELATING TO MAUNA KEA

Chairs Tarnas, Nakashima, and Luke; Vice Chairs Branco, Matayoshi, and Yamashita; and members of the Committees:

The Board of Regents (“Board”) opposes H.B. No. 2024 which seeks to establish the Mauna Kea Stewardship Authority as the sole managing authority for state-managed lands on Mauna Kea.

On February 17, 2022, the Board considered and discussed H.B. No. 2024 relative to the University of Hawai'i (“University”) which has operated and managed the Mauna Kea Science Reserve (“MKSR”), a scientific complex constructed to establish astronomy in Hawai'i, and its associated lands since 1968. The Board also continues to exercise its oversight of the University's actions with respect to the MKSR, most recently adopting, by a majority vote, a new Master Plan for the University's Maunakea Lands on January 20, 2022, while concomitantly expressing its belief that many of the underlying issues related to Mauna Kea are beyond the control of the University and will only be addressed through community efforts.

While the Board understands the concerns raised about the University's overall management of Mauna Kea lands under its jurisdiction in the past, the University is the only entity currently in existence with the capacity to effectively and efficiently manage the MKSR and the most capable steward for the Mauna Kea lands under the University's jurisdiction. As such, the Board respectfully opposes passage of H.B. No. 2024.

Thank you for the opportunity to provide testimony in opposition to H.B. No. 2024.

HB-2024

Submitted on: 2/18/2022 11:06:16 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lehua Kaulukukui	Puakalehua Early Learning Consortium	Support	No

Comments:

Aloha members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance,

Thank you for the opportunity to provide written testimony in SUPPORT of HB2024. The proper stewardship of Mauna a Wākea has long been debated with numerous Native Hawaiian, environmental and community groups raising concerns over the decades.

Formal reviews have validated the community's concerns. The Hawai'i State Auditor's Office released reports in 1998, 2005, 2014, and 2017 that were critical of the University of Hawai'i's (UH) stewardship of Mauna a Wākea. Most recently, the Department of Land and Natural Resources' "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan" found that the while UH's management of Mauna a Wakea had improved, it failed to timely approve administrative rules; failed to consult with the Native Hawaiian community on cultural resources issues; and failed to engage with the community, particularly the Native Hawaiian community, on education and outreach efforts.

HR33, HD1, aimed to address these longstanding issues by establishing a Mauna Kea Working Group (Working Group) to provide recommendations to develop a new governance and management structure for Mauna a Wākea.

As supporters of a healthy and protected Mauna a Wākea, we strongly urge you to pass HB2024 with the following amendments:

- Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report - Ho'okikī Kānāwai, Kua'ā Kānāwai, Kai'okia Kānāwai, Kīho'iho'i Kānāwai;
- Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group's Report; and
- Add language that would require the University of Hawai'i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

In conclusion, the leadership of the House of Representatives declared a bold commitment to take steps towards economic, cultural, and environmental justice. Your support of HB2024 will make good on your commitments to your constituents, and Hawai‘i’s precious natural and cultural resources.

Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group:

He lā hou kēia ma Mauna a Wākea.

A new day has indeed arrived on Mauna a Wākea.

Me ke aloha no Mauna a Wākea,

Puakalehua Consortium

Lehua Kaulukukui, Chair

HB-2024

Submitted on: 2/11/2022 9:02:35 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ronald Taniguchi, Pharm.D.	Individual	Oppose	No

Comments:

Strongly oppose the intent and content of HB 2024. Mahalo

Aloha Committee On Water & Land Chairman Tarnas and Fellow Committee Members,

I strongly urge your committee not to give a positive recommendation to HB2024. This proposed legislation would usurp the current management of Maunakea, and essentially lead to end of astronomy on Maunakea as we know it today.

The new management structure would sway control of Maunakea to Native Hawaiian control. There should be other community voices, not just Native Hawaiians. In other words, Native Hawaiians are not the predominant race in Hawaii. There should be diverse group of people managing the future of Maunakea. This includes existing stakeholders, such as the University of Hawaii and operators of astronomical facilities

Astronomical facilities on Haleakala and Maunakea contributed 221 million dollars to the State of Hawaii's economy in 2019. This economic activity has not only diversified our economy, but has also contributed jobs that are not tourism, construction, or military related. We need to continue to support the diversification of the Hawaii's economy. This proposed legislation would do the opposite, and eventually lead to the elimination of astronomy on Maunakea.

Aaron Stene
Kailua-Kona

Center for Hawaiian Sovereignty Studies
46-255 Kahuhipa St. Suite 1205
Kane'ohe, HI 96744
(808) 247-7942
Kenneth R. Conklin, Ph.D. Executive Director
e-mail Ken_Conklin@yahoo.com
Unity, Equality, Aloha for all



To: HOUSE
COMMITTEE ON WATER AND LAND, and
COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS, and
COMMITTEE ON FINANCE

For hearing Saturday, February 19, 2022

Re: SB 2024 RELATING TO MAUNA KEA.
Establishes the Mauna Kea stewardship authority as the sole authority for management of state-managed lands on Mauna Kea. Requires the authority to develop a single plan that dictates the management of land uses; human activities, uses, and access; stewardship, education; research, disposition; and overall operations. Requires the authority to develop a framework to limit astronomy development on Mauna Kea. Prohibits certain commercial use and activities on Mauna Kea. Requires an application and fee for all recreational users of Mauna Kea. Establishes Mauna Kea management special fund. Repeals Mauna Kea lands management special fund. Appropriates funds.

TESTIMONY IN OPPOSITION

In education we're familiar with the fundamental 3 Rs:
Reading, (w)Riting, and 'Rithmetic.

Here are the 4 Rs of HB2024:
Racism, Religion, Retrogression, Re-education.

The first two are both immoral and illegal for legislation; the third would be very damaging to Hawaii's economy and status. The fourth would give ethnic Hawaiian propagandists the right to use Mauna Kea the way they currently use Iolani Palace, as a prop to brainwash visitors to believe in an idealized version of Hawaiian culture and a victimhood analysis of Hawaii's history.

RACISM

This bill is racist in the way it was created and in the way it requires that it must be implemented.

The "working group" established in 2021 to develop a plan for Mauna Kea was deliberately stacked with ethnic Hawaiians, far out of proportion to their percentage of Hawaii's citizens. So of course they developed a plan with not only racial preferences but actual racial requirements. The working group was created in urgent response to multi-year protests by a group of anti-telescope activists who were overwhelmingly ethnic Hawaiian and used Hawaiian cultural symbols, chants, and prayers to illegally blockade the access road and occupy adjacent areas with semi-permanent tents, shacks, and race-based religious "altars." In politics we know "the squeaky wheel gets the grease" -- in this case, a racial group dominated the protests, so the politicians created a working group dominated by that racial group in hopes of pacifying them, anticipating that group would create a plan catering to the perceived desires of that racial group, which is exactly what has happened. In politics we know that if you yell loud enough you will drown out opposing views. No matter that the protesters in particular, and astronomy opponents in general, are a minority among

the minority of ethnic Hawaiians -- they claim to speak on behalf of all racially defined Hawaiians, and the media publish news reports falsely portraying the protesters as expressing that alleged consensus.

The text of this bill proposes to create a "Mauna Kea stewardship authority" empowered to create and enforce regulations by authority of the government of the State of Hawaii. This authority will have 9 members: 2 ex-officio and 7 appointed. At least one of the two ex-officio members is guaranteed to be racially Hawaiian because that member is the CEO of OHA or person designated by that CEO. The bill also requires that "four of the seven non-ex-officio members of the authority shall be Native Hawaiian residents of the county of Hawaii, with a preference for Native Hawaiian residents of the county of Hawaii for all seven non-ex-officio members." Thus, at least 5 of the 9 members (i.e., a majority) are guaranteed to be racially Hawaiian; and this bill adds a preference that all 7 of the appointed members should be racially Hawaiian (plus the ex-officio OHA CEO or designee).

Furthermore, "A majority of all members shall constitute a quorum to do business, and the concurrence of a majority of all members shall be necessary to make any action of the authority valid." Since at least 4 of the 7 appointed members, and at least 5 of the 9 total members, are guaranteed to be racially Hawaiian, and since a majority consisting of 5 out of 9 members is a sufficient quorum to conduct business and make decisions, it would be easy for the racial Hawaiians to conduct business and adopt regulations (i.e., LAWS OF THE STATE OF HAWAII) without approval or even without notification to any non-racial-Hawaiian. THIS IS THE VERY DEFINITION OF RACISM: the exercise of power by one racial group without consent by (or even notification to) others. This systemic racism would have the authority of the government including police powers, fines, arrest and imprisonment. Also note that this bill specifies that a voting bloc of 4 out of the 9 members must be under the control of OHA: the ex-officio CEO of OHA (or designee), plus the 3 members designated as items 7,8,9 who

are nominated by OHA "in coordination with the Edith Kanaka'ole Foundation and I Ola Hāloa Hawaiian studies program at Hawaii community college."

A totally unacceptable part of this bill, both because of its racism and because of its requirement to transfer sovereignty out of the State of Hawaii, is this:

"§ -8 Transfer. The lands under the jurisdiction of the authority shall be held in trust as part of the public land trust; provided that the State shall transfer management and control of the lands to a sovereign Native Hawaiian entity upon its recognition by the United States and the State of Hawaii."

That same language is already in the law regarding the entire island of Kaho'olawe. Pursuant to section 6K-9, Hawaii Revised Statutes, the management and control of the Kahoolawe island reserve will be transferred to a sovereign native Hawaiian entity upon its recognition by the State and the federal government. This event is anticipated to occur within the timeframe of the 2026 Kaho'olawe strategic plan. That same language has been incorporated into other bills in the recent past which fortunately failed, regarding the governance of Kahana Valley, Makua Valley, Ha'iku Valley (Ko'olaupoko O'ahu), and perhaps others. Some Hawaiian sovereignty activists are secessionists who would like to kick out the USA completely and make Hawaii an independent nation; other activists want to create a Hawaiian tribe and get federal recognition of it and then divide the people and lands of Hawaii between tribal vs. non-tribal. Both types of sovereignty activists realize it will take a while to achieve their dream; so in the meanwhile they want to carve out bits and pieces of Hawaii (this bill proposes it for Mauna Kea) to be designated as apartheid-style bantustans. These carve-outs, including approximately 70 DHHL "Hawaiian Homelands", are moth-holes in the fabric of Hawaii's society, where the number of holes and the size of each one seem to increase over time.

RELIGION

The word "sacred" and other religious concepts are sprinkled throughout this bill in a way that is contrary to America's well-established principle that there should be a wall of separation between government and religion. Of course the Hawaiian sovereignty activists will immediately shout "America's laws and principles have no jurisdiction or application here" (because the overthrow of the monarchy, Treaty of Annexation, and Statehood vote were all "illegal"). If you legislators believe that, you should resign.

One way we use that word "sacred" in everyday life is not a problem for separation of government and religion, because it's not a reference to religion but merely refers to something that is important; majestic; arouses awe or respect or strong affection. A child is sacred to its parents. Money is sacred to a miser or tycoon. And yes, a powerful telescope is sacred to an astronomer.

But in this bill, the ancient Hawaiian religion is enshrined and embedded everywhere. It's unacceptable or at least worrisome to many ethnic Hawaiians who consider themselves good Christians or Jews; and completely unacceptable to the remaining 80% of Hawaii's people.

Here are some items in the bill that need further explication for any legislators who might not be aware of how certain terms are used and the religious beliefs they entail.

"Mauna Kea serves as an important genealogical site"

"I Ola Hāloa Hawaiian studies program"

"Hawaiian cultural values embedded in the sacred landscape of the mauna"

""aina aloha"

Kumulipo is a beautiful ancient Hawaiian creation legend passed down orally for centuries by priests who were trained to chant all 2102 lines perfectly. The elements of Kumulipo pertaining to the creation of the

Hawaiian islands and the creation of humans can be summarized as follows.

The gods mated and gave birth to the Hawaiian islands as living beings, which remain alive to this day. Earth Mother's name, Papahānaumoku, literally means Papa-who-gave-birth-to-the-islands. Sky Father Wakea mated with Papa who gave birth to the goddess Ho'ohokukalani, whose name means she who placed the stars into the heavens. Later when Papa was away on a journey, Wakea mated with his daughter Ho'ohokukalani (not child-molesting but a sacred ni'aupi'o mating), who then gave birth to a deformed stillborn baby Haloanaka-laukapāpili. Wakea and Ho'ohokukalani buried it, and from that burial grew the first taro plant. Wakea and Ho'ohokukalani mated again, and from that mating Ho'ohokukalani gave birth to a perfect human baby boy, to whom they gave the name Haloa to honor the stillborn elder brother.

What was the role of the perfect baby boy Haloa as ancestor of future generations?

A benign interpretation is that Haloa is a Hawaiian name for the Biblical Adam -- the ancestor from whom all humans are descended. Thus we are all children of the gods and siblings to the land, endowed with a divine right to receive sustenance and a stewardship responsibility to take care of the land and exercise authority over how it should be used.

But Hawaiian sovereignty activists twist the creation legend to say that Haloa is the primordial ancestor only of ethnic Hawaiians. Anyone who has at least one drop of Hawaiian native blood is a descendant of Haloa, but nobody else is a part of this family. Only ethnic Hawaiians are children of the gods and siblings of the land, while nobody else ever can be who lacks a drop of the magic blood. Therefore ethnic Hawaiians have a divine right to rule Hawaii. This is an evil fascist theology to justify ethnic Hawaiian racial supremacy. This theology is the explanation for what makes Mauna-a-Wakea sacred and why it is

"an important genealogical site": it is literally the place where sky (Wakea) and Earth (Papa) came together to mate, from which are descended the islands, the taro plant, and then the primordial ancestor, named Haloa, of all ethnic Hawaiians. "I Ola Hāloa" (the Hawaiian studies program at Hawaii [Island] Community College) is named for that primordial ancestor Haloa, and is an assertion that he lives (through all his genetic [racial] descendants who have at least one drop of the magic blood).

The ancient Hawaiian religion with centuries of tenure was permanently abolished in 1819, the year before the first Christian missionaries arrived. It was abolished by the four top political and spiritual leaders of the Kingdom in a public display in front of perhaps a thousand important people. After careful planning, they broke a major taboo ('aikapu) whose violation normally carried the death penalty (men and women must not eat together), and then gave a short speech proclaiming that the old religion was now overthrown, and ordering the destruction of all the stone temples and burning of the idols throughout all of Hawaii. The four leaders were the child King Liholiho Kamehameha II; his biological mother Keopuolani (sacred wife of Kamehameha The Great and mother of the next two Kings who were his sons by her) who had the highest mana (spiritual power) in Hawaii; his regent (co-ruler) stepmother Ka'ahumanu ("favorite" wife of Kamehameha The Great among more than 20 official wives and numerous unofficial concubines); and Kahuna Nui (High Priest) Hewahewa. These leaders freely exercised self-determination on behalf of the entire nation. Soon thereafter came a short civil war. High chief Kekuaokalani, to whom Kamehameha The Great had entrusted the war god Ku, and his army, fought to preserve the old religion but were slaughtered in the Battle of Kuamo'o. Some ethnic Hawaiians today seek to revive the old religion as a political power-seeking ploy, thereby disrespecting the freely-chosen self-determination of their ancestors, and also disrespecting the Christianity practiced by most ethnic Hawaiians today. Many ethnic Hawaiians today claim to embrace both Christianity and the ancient religion, and pray or chant to the god(s) of both. There are even a few left-leaning Christian pastors who tell their

flocks it's OK to embrace both; but the Protestant missionaries of the 19th Century and the Catholic hierarchy of today reject such syncretism. One thing that makes Kamehameha III famous among historians was his gut-wrenching public vacillation between the two religions: He dearly loved his younger sister Nahi'ena'ena (same pair of parents) and made a baby with her (especially for love and also to fulfill a political requirement for genealogical enhancement of mana in the royal family) even while periodically repenting and trying to be a good Christian when the missionaries warned him about incest.

An essay drafted by 7 Native Hawaiian leaders in July, 2021 is entitled "The Historical Context for Sacredness, Title, and Decision Making in Hawai'i: Implications for TMT on Maunakea." It points out that the ancient Hawaiian religion and its gods had no objection to using areas near the summit of Mauna Kea for commercial and industrial purposes which included living and working there, digging into the ground to quarry rocks for sale or barter, and leaving their trash behind. It is not "Wao Akua" (the realm of the gods where ordinary people are not allowed to live or work).

"Archaeological evidence demonstrates that, while the kapu system was in effect, Hawaiians utilized Maunakea as a valuable resource for industrial activities for over 500 years until the time of western contact. Hawaiians excavated the upper slopes of Maunakea for stone of exceptional quality to make tools. As described by Hawaiian cultural practitioner and master navigator Kalepa Baybayan during the TMT contested case hearing, "[t]hey ... shaped the environment by quarrying rock, left behind evidence of their work, and took materials off the mountain to serve their communities, within the presence and with full consent of their gods." This adze quarry complex covers an area over 900 times the size of the permitted TMT site, which itself is small compared to the entire astronomy precinct"

Hawaii is multiracial, with many different religions. No individual race or religion should be allowed to dictate to everyone else what will be the

decisions of the government. The U.S. Constitution, First Amendment, says there shall be no "establishment of religion" by the government, meaning that government must not adopt any particular set of religious beliefs as the primary basis for making decisions that affect all people of all different religions. That Amendment allows "free exercise" of religion by any religion, so long as it doesn't force itself on anyone who is not an adherent of it.

It would be both legally and morally wrong for any government agency to award custody of Mauna Kea to any racial group or to adopt decisions or regulations establishing the ancient Hawaiian religion as the primary authority.

The Constitution of the State of Hawaii, Article XII, Section 7 declares that the State "reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights." Subsequent court decisions have ruled that those rights extend to ethnic Hawaiians beyond the borders of any particular ahupua'a, and apply to shoreline access and gathering of certain plants for subsistence and cultural practices. To avoid imposing racial exclusivity, ALL SUCH RIGHTS SHOULD BE ALLOWED TO EVERY RESIDENT OF HAWAII. We would thereby ensure that all Native Hawaiians would be protected as required by the Constitution, while also manifesting the Aloha Spirit and the value "ho'okipa" as we avoid racial supremacy or exclusivity. The fact that native Hawaiians had certain rights in ancient times, and still have those rights today under the State Constitution, does not in any way prohibit those rights from being available to all Hawaii's people of all races today. Another way of saying it is that those rights previously belonged to all Hawaii's people (who were, of course, all native Hawaiians back then), and continue to belong to all Hawaii's people today (regardless of race). There's nothing wrong with that, is there? Unless you're a flat-out racist demanding racial supremacy.

RETROGRESSION

This bill as written makes it clear there is no future for astronomy on Mauna Kea. Of course the "working group" and legislators who created it will say even the Thirty Meter Telescope remains a possibility; and the news media obediently repeated that nonsense. But the language in this bill is very clear. Astronomy will be phased out while environmental protection and cultural/religious uses will grow until all the telescopes and evidence of human habitation are removed and the upper zone of the mountain will be retrogressed to its natural state.

§ -6 Astronomy development; framework: "The authority shall develop a framework to limit astronomy development on Mauna Kea through development limitations that may include limitations on the number of astronomy facilities or an astronomy facility footprint limitation; provided that IN ESTABLISHING A FRAMEWORK TO CONTROL ASTRONOMY DEVELOPMENT ON MAUNA KEA, THE AUTHORITY SHALL ESTABLISH A PLAN TO RETURN THE MAUNA ABOVE NINE THOUSAND TWO HUNDRED FEET ELEVATION TO ITS NATURAL STATE." Note the word "shall" (mandated) as opposed to "may" (allowed).

Also, § -12 says "Any lease issued by the authority for the purposes of an astronomical observatory shall ensure that the astronomical observatory shall plan for and finance its decommissioning process on Mauna Kea and return and restore the impacted areas, to the greatest extent possible, to their pre-construction condition; provided that the authority shall determine what site restoration shall be based on, including but not limited to the protection of the natural and cultural resources on Mauna Kea and in accordance with the authority's guiding operational values and principles. [We will allow you to be born, but only if your genome includes a timed-release death gene]

The Honolulu Star-Advertiser of January 30, 2022 published an article summarizing a report by the University of Hawaii Economic Research Organization that "The state's astronomy sector pumped \$110 million

into Hawaii's economy in 2019 and generated an overall economic impact twice that ... astronomy's overall economic impact of \$221 million, which includes indirect expenditures, is nearly as much as agriculture statewide."

In Hawaii we often hear people lamenting the fact that many of our best and brightest children go away to college and never come back. Hawaii's economy is based on tourism and the military, providing little opportunity for people with advanced educations in science and technology. People born and raised in Hawaii often feel that all they can look forward to is a job as a hotel maid, store clerk, bus driver, carpenter, etc. Even locally-grown adults sometimes feel squeezed out and leave for other states with better opportunities -- Hawaii's population has declined in recent years due to out-migration. Retrogression by abolishing astronomy and its associated technology would probably accelerate the diaspora of Hawaii's people.

The COVID pandemic shut down Hawaii's tourist industry, and local folks discovered how nice it is to have good access to our beautiful environment without competition from tourists. The Navy's leaky fuel storage tanks at Red Hill created anti-military sentiment and a wish that we could kick the military out of Hawaii. If we don't want tourism, and we don't want a huge military presence, what's left to stimulate the economy and provide jobs?

Astronomy provides safe high-status jobs with good salaries for intelligent people of all races; does not pollute the environment; helps advance our knowledge of the universe, its ongoing story of creation, and our place among the stars. We have stunningly beautiful photos of galaxies, nebulae, planets, and even black holes from close to the time of the "big bang." Getting rid of telescopes on Mauna Kea would give a victory to anti-science troglodytes and damage our economy.

RE-EDUCATION

§ -11 (c) of this bill says "The authority shall require all people accessing Mauna Kea to undergo an annual orientation anchored by the authority's guiding operational values and principles; provided that all employees, contractors, leaseholders, and others who regularly access Mauna Kea shall have more extensive and frequent training on the authority's guiding operational values and principles.

What are those values and principles? § -2(9)(h) explains:

The authority shall adopt and follow the following guiding operational values and principles:

- (1) Mauna Aloha – We understand the reciprocal value of the mauna and a long-term commitment to maintaining the integrity of Mauna Kea;
- (2) ‘Ōpū Kupuna – We understand and embrace a duty and accountability to Mauna Kea, the natural environment, and to perpetuate the Hawaiian cultural values embedded in the sacred landscape of the mauna; and
- (3) Holomua ‘Oi Kelakela – We are driven by creativity and innovation, constantly challenging the status quo, with a stewardship of Mauna Kea that is informed based on existing knowledge and traditions, as well as on new and expanding knowledge. We are mindful and observant of needs, trends, and opportunities and seek new knowledge and opportunities in ways that enhance the ability to serve as stewards without jeopardizing the foundation of aina aloha.

Thus this bill would give ethnic Hawaiian propagandists the right to use Mauna Kea the way they currently use Iolani Palace, as a prop to brainwash visitors to believe that the idealized version of Hawaiian culture they are being told about is actually true, an animist religious viewpoint, and a victimhood analysis of Hawaii's history.

In some ways this one-time orientation for casual visitors, and frequent re-indoctrination for employees and regular visitors, is similar to the re-education methodology used in several Asian nations after a cultural or political revolution: Chairman Mao's cultural revolution in China; Pol Pot's re-education camps in Cambodia; similar campaigns in Viet Nam after the Americans were kicked out; and what's now happening with the Uyghurs in China and the women and girls in Afghanistan following the Taliban victory. They all need to be re-educated to adapt and assimilate to the newly dominant culture/religion/philosophy/ethnicity.

Should visitors (both residents and tourists) to certain special places be required to undergo an "orientation" program, video, lecture, or escorted tour? There is a good orientation program at Hanauma Bay, where all visitors are told how to snorkel responsibly and must not stand on the coral because that kills it -- this orientation program is racially/culturally neutral and free from divisive propaganda. There is a bad situation at Iolani Palace which has fallen under the control of Hawaiian sovereignty zealots, who focus on the "imprisonment room" and the beautiful songs and quilt created by the wonderful Lili'uokalani who was "illegally overthrown" by the USA [false], without explaining how she demanded the beheading of the local men who overthrew her, why she was imprisoned for conspiracy in a violent counterrevolution, and that she abdicated and swore allegiance to the Republic, and was fully pardoned by her magnanimous friend President Dole. The focus is on the ten years when the Palace was the Capitol of the Kingdom, but no mention of the 5 years when it was Capitol of the Republic and 70 years when it was Capitol of the Territory of Hawaii proudly flying the U.S. flag on the highest center pole. Iolani Palace is owned by the Department of Parks within DLNR, on behalf of all Hawaii's people. But it has become a propaganda factory miseducating kama'aina and malihini, leading them to believe it remains the Capitol of a still-living Kingdom of Hawaii where the spirit of Lili'uokalani still lives.

HB-2024

Submitted on: 2/14/2022 7:52:19 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Nana-Honua Manuela	Individual	Oppose	No

Comments:

No title, no treaty, no consent, prepare for the end of the lease and restore the Mauna Kea summit.

HB-2024

Submitted on: 2/14/2022 10:12:40 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jennifer Noelani Ahia	Individual	Oppose	No

Comments:

I strongly oppose this bill.

HB-2024

Submitted on: 2/14/2022 4:06:08 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ruth Yender	Individual	Oppose	No

Comments:

- **I oppose this bill** for many reasons. **I disagree** with there being **zero** representation by the University of Hawaii - or the academinc interests of astronomy - on the proposed stewardship authority board. I also strongly oppose the development of a framework to limit astronomy development on Mauna Kea - and essentially eliminate it. Astronomy is the **only** world-class academic program at the University of Hawaii. It has been a real pearl to the state academically and technologically. The facilities on Mauna Kea have a negligible environmental footprint: no noise pollution, no light pollution, no air pollution, no water pollution. How many million and billion dollar facilities can make that claim? Astronomy brings money and academic prestige into the state. Spouses of astronomers brought in by the astronomy facilities are doctors, engineers, teachers and other experts desperately needed in the state. **I am a taxpayer in Hawaii who supports astronomy on Mauna Kea and my voice should be heard, too.** Decisions about Mauna Kea should not be delegated exclusively to a very vocal minority.

HB-2024

Submitted on: 2/15/2022 9:49:16 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Douglas Perrine	Individual	Oppose	No

Comments:

HB2024 is expressly designed to give control of a publicly owned natural resource to a specific racial and religious group in order to squelch the rights of other religious, recreational, and commercial users of this resource. This bill is in direct violation of Hawaii's constitution and to all democratic norms. It expressly violates my rights and dignity as a citizen of Hawaii and serves as a slap in the face to the ideals for which Hawaii has stood since the early years of the Hawaiian monarchy.

HB-2024

Submitted on: 2/15/2022 5:24:11 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Georjean Adams	Individual	Oppose	No

Comments:

DO NOT support the Mauna Kea Working Group Draft of December 17, 2021 and its implementation via HB2024.

I respect the beauty and wonder of Maunakea and want to continue to minimize adverse impacts on the environment and maximize expanding our knowledge of the universe. I do not respect the imposition of religious beliefs of a small group of "native" Hawaiians on all of us who love living here and who are proud of the scientific discoveries made by the observatories on our mauna.

It is clear that the majority of the Mauna Kea Working Group and this bill intends to eliminate astronomy on the mauna and preserve it solely for their religious practices.

"... the Governing Entity shall establish a plan to return the mauna above 9,200 feet elevation to its natural state." [Ch 3 MKWG Draft and HB2024 Part I Sec. 6]

FACT: Humans are invasive species on this island - no matter when we came or what we brought with us. Our kuleana is to try to be as sustainable as we can be so that future generations can also benefit and love living here. We can learn from some of the stewardship practices of the early settlers (like the concept of ahupua'a or ecosystem management) but should not be bound by religious beliefs. The ali'i abolished the kapu religion over 200 years ago and our constitution prohibits the government from establishing a religion.

I support the adopted Master Plan for the University of Hawaii Maunakea Lands January 20, 2022. The Plan shows careful consideration and balancing of both the cultural and scientific importance of Maunakea. I support the cutting edge observatories on Maunakea, the decommissioning of observatories that are past their prime, and the building of new observatories as they meet standards in the Master Plan. I support allowing respectful religious practices on the mauna. The University of Hawaii has learned a lot (and will keep learning) and has shown that it should continue managing the Maunakea Lands for the benefit of all.

Georjean Adams, full-time resident of Hawaii County District 7

HB-2024

Submitted on: 2/15/2022 5:54:44 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Donald Rudny	Individual	Oppose	No

Comments:

Aloha Honorable Representatives,

I have reviewed the draft proposal of the Mauna Kea Working Group to propose a new governance and management structure for Mauna Kea. The proposal in its present form is flawed and should be summarily rejected by the Hawaii State Legislature.

I cite the following reasons for my opinion.

1. As one who lives on Mauna Kea and is also a “stakeholder” in the future of Mauna Kea, I found the Working Group process to be much too exclusive and lacks consideration of all citizens of Hawaii.
2. The draft proposal appears to exclude input from the astronomy community. Mauna Kea has proven to be the best site in the world for astronomy. The science of astronomy has deep roots in Native Hawaiian culture and history and plays a major role in our economy and future educational development of our young people. Astronomy should play a prominent role in the governance and future development of Mauna Kea.
3. The proposal raises constitutionality concerns by requiring appointments to be based on racial, religious or ethnic backgrounds. Potential violations of both the First and Fourteenth Amendments of the U.S. Constitution exist. All elected officials are sworn to uphold the Constitution of the United States. Passing this proposal as law may be a violation of their oath of office.
4. The present ownership of lands in the managed area requires the agreement and cooperation of several entities. The present governing structure is in place and has been working well despite the claims of some. Significant changes have been implemented to address some of the concerns brought up in the past two or three decades, and the controlling entities appear to be very open to consideration of input from anyone for additional changes.

I have the deepest respect for Native Hawaiians and recognize the issues affecting them, but Mauna Kea is a distraction to addressing and solving them, and this process and proposal will not resolve the real issues. I believe that we are all brothers and sisters in humanity, and must work with respect for each other to resolve these conflicts and issues, with equal consideration for all involved as guaranteed by the U.S. Constitution. This proposal fails to do that and will

only create more division among us.

Mahalo for your time and attention.

Don

Don Rudny
P.O. Box 106
Pepeekeo, HI 96783-0106

312-209-5870

HB-2024

Submitted on: 2/15/2022 7:26:01 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Russell Keller Laros III	Individual	Oppose	No

Comments:

Aloha,

I am writing you to urge that you oppose HB2024. The bill would destroy astronomy on Mauna Kea and harm not only the thousand people employed in the industry on Hawaii Island but also human knowledge as it pertains to astronomy.

I believe Ancient Hawaiians were, arguably, the greatest celestial navigators in human history. The Keck Observatory and the Canada France Hawaii Telescope on Mauna Kea are the world's number 1 and number 2 greatest sources of peer reviewed scientific literature in the field of astronomy. The University of Hawaii Hilo and Manoa both have excellent schools of physics and astronomy thanks to their access to the telescopes. I believe the State of Hawaii should do everything it can to insure continued advances in the field of astronomy.

HB2024 unnecessarily expands land jurisdiction. Good management is already in place.

Kill HB2024 before it kills astronomy.

Sincerely,

Russell Keller Laros III

Kailua-Kona, HI. 96740

HB-2024

Submitted on: 2/15/2022 8:56:35 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Clarence Ching	Individual	Oppose	No

Comments:

Testimony IN OPPOSITION to HB2024.

In Hawaiian history - we continue to hear about how the Kingdom of Hawaii and its lands were lost. This proposed legislation is yet another episode in the loss. Although this supposedly takes place in the light of day, and it uses some of the valid words - like a conveyance "in trust" - what and how the picture ends up (by this proposal) is something that the Admission Act of 1959 (that created the Public Trust) DID NOT contemplate!

HB2024 is grossly defective in its provisions: It is a Breach of Trust to be committed by you as Legislators who are Agents of the so-called "State of Hawai'i, as Trustee of the Public Trust, who, by oath, are required to exercise Fiduciary Duties and Responsibilities in order to administer and manage the Constitutional Trust for the benefit of its Beneficiaries who are Native Hawaiians and the General Public. The Hawai'i Supreme Court opines that the Public Trust is like regular trusts - and that the Trustee (the so-called "State of Hawaii" and its agents) must protect the resources of the Trust for the benefit of its Beneficiaries (See Ching v. Case - <https://law.justia.com/cases/hawaii/supreme-court/2019/scap-18-0000432.html>) And the Beneficiaries must have benefits. Among other things, the Hawai'i Supreme Court has declared that these trust responsibilities and duties are non-delegable!

The lands of the Public Trust are lands stolen from the Hawaiian Kingdom at the illegal Overthrow of the government of the Kingdom in 1893. The so-called Provisional Government, succeeded by the so-called Republic of Hawaii, ceded its interest (that were nothing - as everything "Overthrow":is illegal - See Apology Resolution Public Law 103-150 [<https://www.govinfo.gov/content/pkg/STATUTE-107/pdf/STATUTE-107-Pg1510.pdf>]) in the lands of the Kingdom, to the United States. The United States Admission Act (illegally administering its "domestic" laws in a "foreign" nation-state - the Hawaiian Kingdom) is a United States domestic action that has NO EFFECT in a foreign country (that the Kingdom of Hawaii was at that time). However, for the purposes of this testimony, it will be assumed that these illegal transfers are valid!

The Admission Act states in Section 5(f): "The lands granted to the State of Hawaii by subsection (b) of this section and public lands retained by the United States under subsections (c) and (d) and later conveyed to the State under subsection (e), together with the proceeds from the sale or other disposition of any such lands and the income therefrom, **shall be held by said State as a public trust for the support of the public schools and other public educational institutions, for the betterment of the conditions of native Hawaiians, as defined in the Hawaiian Homes Commission Act, 1920, as amended, for the development of farm and home ownership on as widespread a basis as possible for the making of public improvements, and for the provision of lands for public use.** Such lands, proceeds, and income shall be managed and disposed of for one or more of the foregoing purposes in such manner as the constitution and laws of said State may provide, and their use for any other object shall constitute a breach of trust for which suit may be brought by the United States. . . ."

At present, the Department of Land and Natural Resources is the State's agent to carry out the States' fiduciary requirements to protect the resources of the trust and to administer and manage Trust resources for the benefit of the Trust's Beneficiaries.

This proposed legislation would convey the assets of the Trust to an entity of stewards appointed by the state Governor for the benefit of its (the entity's) purposes, which seem to be in conflict with the listed purposes of the Public Trust. If anything, none of the benefits that will flow to the proposed entity will benefit the intended uses and beneficiaries of the Trust. This legislation seems to be a "Breach of Trust" as suggested by the Admission Act - the governing document of the Public Trust.

The proposed conveyance of the Mauna Kea trust lands to the proposed entity of stewards "in trust" does NOT seem to be accompanied by fiduciary trust responsibilities and duties. So the question becomes - In the proposed action, how will the "state" as Trustee enforce its trust duties and responsibilities when it doesn't have control of the corpus? Is this proposed legislation a Breach of Trust?

The question is - Can the fiduciary duties and responsibilities of the Public Trust now being exercised by the Department of Land and Natural Resources (DLNR), as an agency of the Trustee "State of Hawaii," be delegated to this new "steward" entity? Or do we have the absurd situation that the corpus of the Trust is conveyed to this new entity "in trust" while the fiduciary responsibility for administering and managing the trust remains in DLNR (that will NOT have

control)? Or do the trust duties and responsibilities disappear, terminating the Trust, and thus being a Breach of Trust?

That this proposed legislation does NOT provide any benefits for beneficiaries of the Public Trust, is this result a "Breach of Trust?"

The Office of Hawaiian Affairs (OHA) is a conduit for benefits to beneficiaries - That OHA is not anywhere in sight mean that a "Breach of Trust" has taken place? This proposed legislation deprives OHA of "benefits to beneficiaries" that the present general lease to the University of Hawaii provides!

The Highways Act of 1892 declared that all roads and trails, etc., were public rights-of-way. The Umikoa, Humu'ula and other trails on Mauna Kea are public entities. Does this proposed legislation place these presently fee simple entities into the Public Trust? Is this an unintended and irregular conversion of a fee interest into the corpus of the Public Trust?

These multiple "Breaches of Trust" cannot be tolerated. To pass this proposed legislation is a farce! Therefor - this bill must be OPPOSED!

HB-2024

Submitted on: 2/15/2022 11:57:43 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Bronson Azama	Individual	Oppose	Yes

Comments:

‘Ano‘ai kākou,

I am testifying in opposition to HB2024. It is very telling that after the university is not impacted by HB499 that a new authority will now take control of the mountain. The risk is far greater than the reward, regardless of the numerous mention of "Native Hawaiian" we do not need a seat at your table, why does the legislature refuse to come to ours. There have always been open arms and open doors by grassroots organizations and practitioners that have protected Mauna Kea far better than the state.

The Mauna Kea working group has already demonstrated to be a facade serving the special interest and far from being a door easily accessible with proper notifications. Not to mention continuous cover-up of closed-door meeting minutes.

Why should we trust another state-made entity? The failure to begin productive dialogue directly to those kia‘i on the Mauna has demonstrated this issue is beyond mitigation through further process after process that continues to result in the outcome of support of industrialization of our sacred mountain for astronomical purposes. These are conservation lands, stolen lands, and if you cannot respect us now, come to us now, then to hell with dancing with the devil again, because the devil doesn't change we do!

VOTE NO ON HB2024!**OUR CHILDREN ARE WATCHING! OUR CHILDREN'S CHILDREN'S CHILDREN ARE WATCHING! OUR ANCESTORS ARE WATCHING! IF YOU MAKE A HEWA DECISION IT IMPACTS NOT JUST NOW BUT ALL TIME.**

Mahalo,

Bronson Azama

HB-2024

Submitted on: 2/16/2022 6:22:00 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Tom Stanley	Individual	Oppose	No

Comments:

Save Astronomy on Maunakea as a Nation Treasure

This bill proposed to enact a new governing entity will take years and hampers Land Authorization (a new state lease) and threatens the existence of astronomy on Maunakea. Look at Act 90 as an example of a timeline. Passed in 2003, Act 90 directed the transfer of state-owned agricultural land from DNLR to the Hawaii Department of Agriculture. Nineteen years later, the land transfer is still not finished.

Astronomy on Maunakea, as a state policy, is a viable high-tech endeavor that actively employs over 1,000 people on Hawaii Island, including STEM related jobs.

The astronomical work done by the Maunakea Observatories contributes to humankind discoveries helping to shape our view of the world. The summit of Maunakea is the best place in the world to view the night sky from the Northern Hemisphere.

Bill unnecessarily expands land jurisdiction

This bill severely limits usage from the general public and expands jurisdiction to include the whole mountain from the 6,500 ft. elevation at the Saddle Road Junction to the summit. These are public lands from which all Hawaii residents and visitors from around the world should have access to. This plan proposes restricted access and limits public use.

This bill proposes that a governing entity make all land use decisions regarding the proposed 120,000-acre site, excluding the current state processes including working with the Land Board

for Conservation District Use Permits. We must protect the checks and balances for managing public lands.

Good management is already in place

University of Hawaii and the Center for Maunakea Stewardship successfully manages 11,000+ acres including the 5,000-acre Mauna Kea Science Reserve. It's stewardship has garnered the State Historic Preservation Award, numerous awards for protection of cultural and natural resources and accolades for its stewardship from the Department of Land & Natural Resources.

HB-2024

Submitted on: 2/16/2022 8:08:59 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Andre Hassid	Individual	Oppose	No

Comments:

I write to express my opposition to House Bill 2024 which requires a new entity to develop a framework to limit astronomy development and create a plan to return the summit of Maunakea to its natural state at some future point.

It is hard to imagine that Hawaii would ban telescopes from Maunakea, named after the God of the Sky in Hawaiian culture. The very symbol of looking to the sky for the answers to the beginning of life would be used as a reason to snuff out the exploration of the beginning of all life in the Universe! That seems antithetical to Hawaiian culture, and a slight on the historical connection between Hawaii and the knowledge of the stars.

Are we to forget that **telescopes were first brought to Hawaii by King Kalakaua who understood the deep connection between Hawaiian culture and the study of the stars?** Are we to forget the Polynesian, Tupaia, the master navigator, who studied the stars and used them to help lead Captain Cook to various Pacific Islands, including New Zealand, that Cook is credited as “discovering?”

In 1960 a tsunami devastated Hilo and the Island of Hawaii’s economy. **Community efforts pushed for government support of astronomy on our Island to help revive the economy.** The University of Hawaii commissioned a telescope on Mauna Kea in 1970. Other telescopes followed to revive the economy, including Canada-France-Hawaii Telescope, Subaru, Gemini, Keck I and Keck II. These world-famous telescopes provide construction, engineering, education, research and maintenance jobs on the Island of Hawaii. They also help attract and promote educators to fill our schools and educate our student community. A recent study found that **they contribute \$220 million to Hawaii’s economy annually.**

Who else, but the astronomy community, offers to invest hundreds of millions of dollars on the Island of Hawaii? Who else offers to help **fund schools** and the office of Hawaiian Affairs annually?

The University of Hawaii was criticized for the management of Maunakea in previous audits. But recent audits found that the University addressed many concerns of the 1998 Audit. The 2005 audit found that “UH and DLNR had made positive changes to protect Mauna Kea and the science reserve since our 1998 audit.” A more recent audit found that “The result is

an improved and more comprehensive framework that coordinates the agencies' efforts to manage and protect Mauna Kea while balancing the competing interests of culture, conservation, scientific research, and recreation.” Clearly, the **University of Hawaii has listened to the community and implemented changes to address concerns in its stewardship of Maunakea.**

The opposition to the telescope is more about legitimate anger and disappointment of some native Hawaiians that they have not shared in the prosperity of Hawaii, as well as lingering resentment at wrongs that were done to the old Kingdom of Hawaii. But none of this is the fault of the astronomy community.

The telescopes give a sense of pride to all Hawaiians as discovery after discovery is credited to Hawaii, and Hawaiian names are given to many discoveries. The astronomy community honors Hawaiian culture. Ouamuamua (scout) is the name given the first object ever discovered that came from outside our solar system. Hawaiian names (Ka'epaoka 'awela and Kamo'oalewa) were recently given to newly discovered asteroids by Hawaiian immersion students.

Telescopes on Hawaii Island have discovered the earliest galaxies to form in the Universe. They have been used to measure the mass of the Black Hole in the center of our Milky Way galaxy. Additionally, Hawaiian telescopes have discovered many planets in far away solar systems.

Flailing at the telescopes and the astronomy community is not the answer. Kill the telescopes and you kill the academic future of Hawaii. University educators in the fields of physics and astronomy will leave Hawaii and go to more welcoming and supportive communities. Without astronomy on the Mauna, Hawaiian students inspired by the astronomy community will have no role models to follow in this field.

No single group should have an exclusive seat at the table to determine the management of the Mauna. Maunakea is held in trust for all the people of Hawaii. Selecting or excluding people based on race or ethnic background is not right. Nor is it wise. The use of the land on Maunakea should be multi-purpose: scientific, religious, recreational, hunting, environmental and other uses. The astronomy community has a prominent role to play in the present and in the future. With careful, common-sense planning, the various uses can be accomplished on Maunakea without interfering with cultural practices.

HB-2024

Submitted on: 2/16/2022 9:50:50 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Niel Thomas	Individual	Oppose	No

Comments:

The testimony below was first prepared in December. It comments on the report of the Mauna Kea Working Group. That report's recommendations have since morphed into HB 2024. References in this testimony are to the MKWG recommendations.

First, as to the proposed Governing Entity, it would:

1. *have management authority over state lands on the whole mountain down to the intersection of the Access Road with the Saddle Road*
2. *be composed of nine members who, with the exception of two ex officio members, must either be Native Hawaiians (four of the remaining seven), with "preference" for Native Hawaiians for all of the seven seats*
3. *not include any representative of the astronomy community*
4. *have "sole authority" for management*
5. *hold in public trust these state lands until Hawaii transfers "management and control of the lands to a sovereign Native Hawaiian entity upon its recognition by [US and Hawaii State Government]."*
6. *set a "framework to limit astronomy development" including "a plan to return the mauna above 9200 feet elevation to its natural state"*

Number 6, and the framework of the report's Recommendations 1-5, means that this Governing Entity arguably would have the uncontested power to sweep the mountain clean of telescopes by refusing to renew leases that expire in 2033, after which the mauna could be in the hands of a "sovereign Native Hawaiian entity".

Provision #1 should be more clear as to what lands are being referred to. A map would be helpful. The map should show the existing classifications of all lands included in the recommendation, and describe the current management of each. If the report's assertion of "sole authority" to manage these lands would repeal existing management responsibilities, the powers and duties that would be removed from these agencies need to be described.

Provision #2 suggests that as many as nine of the 11 seats on the Governing Entity could be Native Hawaiians. (But either or both of the ex officio members might also be Hawaiian, which creates the possibility of every member being Hawaiian.) Only if the required "preference" for three of the seats is ignored, and both ex officio members are non-Hawaiian, could there be the minimum of four "required" seats of indigineous Hawaiians. This is not how to credibly overcome decades of insensitivity to the concerns of Native Hawaiians. People will be quick to see through stacking the deck, and the kuleana of the Governing Entity won't gain respect. By comparison, state anti-discrimination laws don't specify racial quotas for Commissioners, but elected officials who make these appointments are mindful that stakeholders must be given places at the table.

Provision #3 violates the principle of giving stakeholders a seat. This isn't "oops, we forgot the astronomers". The question was discussed at length, and MKWG "could not reach consensus," according to the report, concluding that professional astronomers should only participate in an "advisory capacity" because of their (unexplained) "conflict of interest". Curiously, no mention is made of the deep pool of Hawaii's indigeneous navigators, the people who found Hawaii by the stars, and continue to pass on this knowledge!

Provision #4 merits a more full discussion of options and alternatives for management. There is a lack of context here. There have been many studies criticizing past and present management structures that govern various lands on the mauna. The MKWG report should summarize work that's already been done to evaluate what has gone before. Why is the structure recommended by the MKWG better? Is the intent really to set aside everything and start over? Why?

Provision #5 assumes more than most people know about the process by which a "sovereign entity" of the Hawaiian indigeneous people might come into existence in Hawaii. The MKWG report hopes for a nation-to-nation relationship between a sovereign nation of indigeneous Hawaiian people on the one hand, and the government of the United States on the other. (The model is the US Government's treaty relationships with tribal nations on the mainland. The relationship is very different between the US government, and most of Alaska's indigenous people, whose entities are not recognized as sovereign.) The MKWG report should summarize [work that has attempted to recreate a sovereign Hawaiian nation](#). The report should also describe the [Federal process](#) that is required for Washington to recognize a nation within a nation. This is a rocky road that has not earned universal support, even of many Native Hawaiians. It's ephemeral to pin the power of a Governing Entity to an undefined government-to-government relationship that may never happen.

Provision #6 and my "sweep the mountain clean of telescopes" comment in the next paragraph, isn't clear to at least one member of the MKWG I've spoken to. When I asked if the report should be read as I've worded my summary above, he expressed surprise. I invited clarification if I've misunderstood, but not received an answer to that request as of this writing.

It's very clear that House Bill 2024 is designed to kill the TMT and perhaps all of astronomy in Hawai'i. We must look to the future and not only the past. Our beloved Governor John Burns looked at Mauna Kea and saw Hawaii's role in the future of astronomy. This was before 1970. According to grandson Brendan, Governor John Burns, "dreamed of the creation of world class telescopes" sitting on top of Mauna Kea. He may well have known that he was sharing the thought of Queen Lili'uokalani who wrote: "The ancient Hawaiians were astronomers." Indeed, Hawaiians at that time were highly esteemed star watchers.

Some Hawaiians believe that Mauna Kea is the *piko*, or "umbilical cord," that connects the Hawaiian Islands to the heavens. What more appropriate way to maintain that connection but through telescopes that scan the heavens. The TMT may even be able to see the beginning of creation.

Queen Lili'uokalani also said, "The world cannot stand still. We must either advance or recede." Let us not recede.

Jean Toyama
55 S. Kukui St. 2801
Honolulu, HI 96813

(808) 228-9922

HB-2024

Submitted on: 2/16/2022 10:09:58 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Tracy Kanahele	Individual	Support	No

Comments:

Aloha members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance,

Thank you for the opportunity to provide written testimony in **SUPPORT** of **HB2024**. The proper stewardship of Mauna a Wākea has long been debated with numerous Native Hawaiian, environmental and community groups raising concerns over the decades.

Formal reviews have validated the community's concerns. The Hawai'i State Auditor's Office released reports in 1998, 2005, 2014, and 2017 that were critical of the University of Hawai'i's (UH) stewardship of Mauna a Wākea. Most recently, the Department of Land and Natural Resources' "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan" found that the while UH's management of Mauna a Wakea had improved, it failed to timely approve administrative rules; failed to consult with the Native Hawaiian community on cultural resources issues; and failed to engage with the community, particularly the Native Hawaiian community, on education and outreach efforts.

HR33, HD1, aimed to address these longstanding issues by establishing a Mauna Kea Working Group (Working Group) to provide recommendations to develop a new governance and management structure for Mauna a Wākea.

As supporters of a healthy and protected Mauna a Wākea, we strongly urge you to pass HB2024 with the following amendments:

- Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report - Ho'okikī Kānāwai, Kua'ā Kānāwai, Kai'okia Kānāwai, Kīho'ihō'i Kānāwai;
- Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group's Report; and
- Add language that would require the University of Hawai'i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

In conclusion, the leadership of the House of Representatives declared a bold commitment to take steps towards economic, cultural, and environmental justice. Your support of HB2024 will

make good on your commitments to your constituents, and Hawai‘i’s precious natural and cultural resources.

Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group:

He lā hou kēia ma Mauna a Wākea.

A new day has indeed arrived on Mauna a Wākea.

HB-2024

Submitted on: 2/16/2022 10:29:02 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ty Yun	Individual	Oppose	No

Comments:

I write to express my opposition to House Bill 2024 which requires a new entity to develop a framework to limit astronomy development and create a plan to return the summit of Mauna a Wākea to its natural state at some future point. This testimony was originally authored by a friend of mine with whom I agree with on HB2024. I could not have expressed our thoughts any better so I am using it in my testimony.

It is hard to imagine that Hawaii would ban telescopes from Mauna a Wākea, the God of the Sky in Hawaiian culture. The very symbol of looking to the sky for the answers to the beginning of life would be used as a reason to snuff out the exploration of the beginning of all life in the Universe! That seems antithetical to Hawaiian culture, and a slight on the historical connection between Hawaii and the knowledge of the stars.

Are we to forget that telescopes were first brought to Hawaii by King Kalakaua who understood the deep connection between Hawaiian culture and the study of the stars? Are we to forget the Polynesian, Tupaia, the master navigator, who studied the stars and used them to help lead Captain Cook to various Pacific Islands, including New Zealand, that Cook is credited as “discovering?”

In 1960 a tsunami devastated Hilo and the Island of Hawaii’s economy. Community efforts pushed for government support of astronomy on our Island to help revive the economy. The University of Hawaii commissioned a telescope on Mauna Kea in 1970. Other telescopes followed to revive the economy, including Canada-France-Hawaii Telescope, Subaru, Gemini, Keck I and Keck II. These world-famous telescopes provide construction, engineering, education, research and maintenance jobs on the Island of Hawaii. They also help attract and promote educators to fill our schools and educate our student community. A recent study found that they contribute \$220 million to Hawaii’s economy annually.

Who else, but the astronomy community, offers to invest hundreds of millions of dollars on the Island of Hawaii? Who else offers to help fund schools and the office of Hawaiian Affairs annually?

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and more comprehensive framework that coordinates the agencies' efforts to manage and protect Mauna Kea while balancing the competing interests of culture, conservation, scientific research, and recreation." Clearly, the University of Hawaii listens to the community and implements changes to address concerns in its stewardship of Mauna a Wākea.

The opposition to the telescope is more about legitimate anger and disappointment of some native Hawaiians that they have not shared in the prosperity of Hawaii, as well as lingering resentment at wrongs that were done to the old Kingdom of Hawaii. But none of this is the fault of the astronomy community.

The telescopes should give a sense of pride to all Hawaiians as discovery after discovery is credited to Hawaii, and Hawaiian names are given to many discoveries. The astronomy community honors Hawaiian culture. Ouamuamua (scout) is the name given the first object ever discovered that came from outside our solar system. Hawaiian names (Ka'epaoka 'awela and Kamo'oalewa) were recently given to newly discovered asteroids by Hawaiian immersion students.

Telescopes on Hawaii have discovered the earliest galaxies to form in the Universe. They have been used to measure the mass of the Black Hole in the center of our Milky Way galaxy. Additionally, Hawaiian telescopes have discovered many planets in far away solar systems.

Flailing at the telescopes and the astronomy community is not the answer. Kill the telescopes and you kill the academic future of Hawaii. University educators in the fields of physics and astronomy will leave Hawaii and go to more welcoming and supportive communities. Without astronomy on the Mauna, Hawaiian students inspired by the astronomy community will have no role models to follow in this field.

No single group should have an exclusive seat at the table to determine the management of the Mauna. Mauna a Wākea is held in trust for all the people of Hawaii. Selecting or excluding people based on race or ethnic background is not right. Nor is it wise. The use of the land on Mauna a Wākea should be multi-purpose: scientific, religious, recreational, hunting, environmental and other uses. The astronomy community has a prominent role to play in the present and in the future. With careful, common-sense planning, the various uses can be accomplished on Mauna a Wākea without interfering with cultural practices.

As my final thought - MaunaKea is big enough to be shared by all!

Submitted with respect,

Ty Yun

HB-2024

Submitted on: 2/16/2022 11:23:56 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ross Wilson Jr.	Individual	Oppose	No

Comments:

This bill will be the demise of astronomy on Mauna Kea.

KECK, Subaru, Gemini and the other observatories have contributed great discoveries for humankind and is a shining star in promoting STEM education and job opportunities for your youth.

The economic fallout on Hawaii Island would be devastating and felt for generations.

HB-2024

Submitted on: 2/16/2022 12:05:10 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dennis Boyd	Individual	Oppose	No

Comments:

I strongly oppose HB 2024.

- A governing authority with racially-determined membership is anathema in this country. The laws the Hawaii legislature enacts are for all Hawaiians and to restrict membership to a public authority by race is utterly unconscionable.
- Barring the astronomy community, one of the primary groups utilizing space on Mauna Kea from the governing authority is a confounding conclusion for a bill based on a report dedicated to "community input and outreach" to have reached; it ensures anything but.
- Ignoring the recent good faith efforts of the UH Hilo Center for Maunakea Stewardship to formulate a new governing structure, efforts that listened to complaints, that worked hard to come up with approaches that ameliorate past omissions, and that was approved by the Board of Regents, presents a myopic, pre-determined outcome to a complex issue.
- Allowing a three year transition period for the new authority to assume management ensures that sufficient lease arrangements for TMT and for astronomy on the mountain are impossible, thus rendering the demise of TMT a foregone conclusion.

I get the idea that this bill is a placeholder for outrage at the abridgement of Hawaiian sovereignty, but why the subterfuge? Let's call it what it is, an end run around existing, tried case law, to block TMT and a response to one highly vocal stakeholder out of many that by no means speaks for the entire group it purports to represent.

HB-2024

Submitted on: 2/16/2022 12:45:45 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Naomi Tachera	Individual	Support	No

Comments:

Aloha iā Kākou apau

I am writing to all of you for support of Bill 2024 which is the bill to eventually clear the mauna of all entities on the mauna that is Mauna a Wākea or Maunakea if you wish. The testimony is due this week and will be heard on Saturday Feb. 19th so all written testimony should be in by the 18th. There is a sample testimony for the bill attached below. There are also directions for where, when and how included in the attachment.

There are 3 additions I would love for you to include which are in the sample. The Bill writers did not include the Kumu Kānāwai which was the foundation for the Working Group once it was explained to them the Kumu Kānāwai was maintaining for water, winds, weather, etc. So the decisions were made because of the height and how it serves the island.

There are instructions for where it is to be sent and when. The plan has never been done before so plus recognize the positive energy in this management philosophy. I appreciate your corporation and your positive support for bill 2024. If you have any questions please ask. We named EKF and I Ola Hāloa as entities who were aware of intelligent Hawaiian to maintain the Hawaiian Ideology of Mauna a Wākea. But EKF is not a Gov. Entity which is fine.

Mahalo nui for your support,

Ola ka 'āina, ola ka mauna, ola nā kānaka Hawai'i

Naomi Ka'ae Tachera

HB-2024

Submitted on: 2/16/2022 1:02:39 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Laura Aquino	Individual	Oppose	No

Comments:

This bill does not recognize nor acknowledge that astronomy on Maunakea is a state-initiated policy that has built a low-impact high-tech scientific economic generator for Hawaii and the world for over 50 years. Why cry out for diversifying our economy when a very viable resource like astronomy is now in jeopardy.

Hawaii elected officials need to save astronomy on Maunakea as a National treasure.

The humankind discoveries being made from observatories on the mauna are shaping our world view, while allowing our students to reach for the stars through educational opportunities.

If agencies in Hawaii charged with the betterment of Native Hawaiians would fulfill their missions, perhaps beneficiaries would have better economic conditions to thrive in.

The issue is not Maunakea management, or astronomy or science, it's about Native Hawaiian issues not being addressed.

HB-2024

Submitted on: 2/16/2022 1:32:38 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
William Mason Evans, M.D.	Individual	Oppose	No

Comments:

I deeply respect the heritage of Hawaiians who descend from ancient Polynesian explorers, however, I oppose HB 2024 because:

(a) HB 2024 proposes a new stewardship authority comprised predominately of Native Hawaiians. This is against the U.S.A. and Hawaii constitutions and exhibits racial bias. Verifying Native Hawaiian bloodlines would be almost impossible to fulfill, since most descend from varied racial backgrounds, due to the influx of Asian, Latin, and European populations.

(b) HB 2024 uses religious doctrine as the source to proclaim Mauna Kea "sacred." Not all Native Hawaiians believe the mountain is sacred, nor does the majority of Hawaii's residents. This sacredness has re-surfaced over the past few decades and is sourced in the concept of "Kapu," a brutal religion that was banned by ali'i long ago.

(c) HB 2024 proposes the removal of University of Hawaii as the steward of the mountain. Yes, UH had one less-than-perfect review years ago, however recent reviews of UH's stewardship have all been positive. And UH's facilities and curriculum are known worldwide.

(d) HB 2024 proposes in veiled language the eventual removal of all telescopes from Mauna Kea. Hawaii is known worldwide as *the* place for astronomy, and many visitors and scientists come here for that purpose. In fact, astronomy brings \$110 million annually to our islands and provides thousands of jobs, according to recent data. Removing major telescopes and sending their employees packing would negatively impact many locally owned small businesses in the islands, especially on the Big Island.

(e) HB 2024 forgets that early Hawaiians and their ali'i wanted to study the stars. In fact, in 1880, Hawaii's King Kalakaua sent a letter to Captain R. S. Floyd to express a desire to see an observatory established in Hawai'i. And Queen Liliuokalani, Hawaii's last reigning monarch, wrote in 1897, "The ancient Hawaiians were astronomers."

(f) HB 2024 allows one racial group to gain control over massive lands, based on pagan folklore. This would make any global company leery of bringing jobs to a state where mythology is preferred over world-class scientific research.

(g) House Bill 2024 is based on the very same racial discrimination that Native Hawaiians endured from outsiders who arrived here long ago. I deeply regret such injustices occurred, but it is simply wrong to remove astronomy from Mauna Kea, limit public access to one race (or to those who can pay), and enabling one race and one religion to dominate Hawaiian laws.

William Mason Evans, M.D.

HB-2024

Submitted on: 2/16/2022 1:41:36 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Larry O'Brien	Individual	Oppose	No

Comments:

I write in opposition to HB2024. It fails to accommodate many legitimate stakeholders and activities on the mountain, including recreational and astronomical, and limits access to a vast resource that should be available to all Hawaii residents and visitors. While HB2024 has stripped the blatantly unconstitutional religiosity of the MKWG working report, it effectively establishes the same flawed and almost certainly unconstitutional (both Federal and State) recommendations for the new governance structure. Rather than moving forward, this will only serve to additionally polarize the residents of the islands.

HB-2024

Submitted on: 2/16/2022 2:08:24 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Hokulani Holt-Padilla	Individual	Support	No

Comments:

Aloha,

As a supporter, in general, of House Bill 2024, I urge you to pass this Bill with the following amendments:

- Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report - Ho‘okikī Kānāwai, Kua‘ā Kānāwai, Kai‘okia Kānāwai, Kīho‘iho‘i Kānāwai;
- Utilize the spelling of Mauna a Wākea for all state-related references, as stated and affirmed in the Mauna Kea Working Group’s Report; and
- Add language that would require the University of Hawai‘i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

I urge the leadership of the House of Representatives to continue its commitment to take steps towards economic, cultural, and environmental justice. Your support of HB2024 will take steps to ensure these commitments.

Hōkūlani Holt-Padilla

HB-2024

Submitted on: 2/16/2022 3:01:55 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Sheena Lopes	Individual	Support	No

Comments:

Aloha members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance,

My name is Sheena Lopes a local resident of Hawaii, and I am writing to you in SUPPORT of HB2024. The proper stewardship of Mauna a Wākea has long been debated with numerous Native Hawaiian, environmental and community groups raising concerns over the decades.

Formal reviews have validated the community's concerns. The Hawai'i State Auditor's Office released reports in 1998, 2005, 2014, and 2017 that were critical of the University of Hawai'i's (UH) stewardship of Mauna a Wākea. Most recently, the Department of Land and Natural Resources' "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan" found that the while UH's management of Mauna a Wakea had improved, it failed to timely approve administrative rules; failed to consult with the Native Hawaiian community on cultural resources issues; and failed to engage with the community, particularly the Native Hawaiian community, on education and outreach efforts.

HR33, HD1, aimed to address these longstanding issues by establishing a Mauna Kea Working Group (Working Group) to provide recommendations to develop a new governance and management structure for Mauna a Wākea.

As supporters of a healthy and protected Mauna a Wākea, we strongly urge you to pass HB2024 with the following amendments:

Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report - Ho'okikī Kānāwai, Kua'ā Kānāwai, Kai'okia Kānāwai, Kīho'iho'i Kānāwai;

Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group's Report; and

Add language that would require the University of Hawai'i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

In conclusion, the leadership of the House of Representatives declared a bold commitment to take steps towards economic, cultural, and environmental justice. Your support of HB2024 will

make good on your commitments to your constituents, and Hawai‘i’s precious natural and cultural resources.

Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group:

He lā hou kēia ma Mauna a Wākea.

A new day has indeed arrived on Mauna a Wākea.

Me ke aloha no Mauna a Wākea,

Sheena Lopes

HB-2024

Submitted on: 2/16/2022 3:28:13 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Mary True	Individual	Oppose	No

Comments:

I oppose HB2024.

HB-2024

Submitted on: 2/16/2022 3:32:53 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Peter Fuleky	Individual	Oppose	No

Comments:

Subj: Testimony AGAINST HB2024 - Hearing on 2/19/2022 9am

Aloha Chairs Tarnas, Nakashima, Luke, Vice Chairs Branco, Matayoshi, Yamashita, and members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

I am writing to testify AGAINST HB2024.

I commend the Mauna Kea Working Group and Speaker Saiki for continuing dialogue on the important issue of managing Mauna Kea. The group was given an impossible task - finding an alternative governing model for Mauna Kea that satisfies the TMT protesters and the rest of the State of Hawaii. The creation of any new governing entity will merely serve to delay TMT and the renewal of the lease that governs the telescopes which expires in 2033. This is, of course, the protesters' objective, but it should not be the State of Hawaii's. I believe this new governance model proposal should be abandoned in favor of continuing UH's management under UH's new proposed plan and structure. Please do not pass this bill out of your committees.

To the extent this effort continues on, I have the following comments on HB2024:

1. The legislation currently proposes excluding the astronomy industry from having a seat on the board of the new proposed Mauna Kea management entity. The telescopes on Mauna Kea and the University of Hawaii maintain the access road and provide billions of dollars in investment and jobs to our economy. At a minimum the astronomy industry deserves a seat on the board tasked with management of Mauna Kea, either through the Mauna Kea Observatories group or the University of Hawaii, if not both.
2. Section 6 currently states that the authority shall establish a plan for eliminating astronomy on Mauna Kea. Astronomy on Mauna Kea provides unique educational opportunities, valuable high skill internships, and quality employment opportunities for the next generation of Hawaii. Eliminating astronomy would be a harsh setback for our children and is not be acceptable.
3. The legislation should include amendments to criminal statutes to allow for harsher punishments and quicker enforcement for blocking of public roadways. We do not want to end up like Canada.

3. The legislation includes a requirement that Mauna Kea above the 6500 foot elevation line be managed under HRS 205A, which governs "Coastal Lands". There is no explanation for why the summit of Mauna Kea, which by definition in this legislation is 6500 feet higher than the coastline, would be governed as "coastal land". The most probable reason is that the protesters know this is a much more restrictive zoning classification that could be used to completely exclude astronomy from the summit. This is obviously unacceptable. No zoning changes should be made that would endanger the astronomy industry on Mauna Kea.

4. All implication that Mauna Kea is "sacred" to all Native Hawaiians should be removed. Mauna Kea is not sacred as a Native Hawaiian matter, as you can read about here: <https://tinyurl.com/Hawaiians4TMT>. The constitution prohibits the government from establishing a religion. Thus, any mentions of sacredness must explain that there are also Native Hawaiians who do not think Mauna Kea is sacred, or who think its sacredness is enhanced by the use of Mauna Kea for astronomy.

Mahalo nui loa,

Peter Fuleky, House District 20

HB-2024

Submitted on: 2/16/2022 3:33:27 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Rodrigo Romo	Individual	Oppose	No

Comments:

Aloha Kakou:

Dear committee chairs, vice chairs, and members.

I am writing to express strong opposition to this Bill. There are so many things wrong with it, that it is difficult to know where to begin.

This Bill is basically a transcript from the report issued by the Maunakea Working Group (MKWG). Let's start by addressing the fact that various members of this group have not even been to the mountain. While it is true that UH had some mismanagement issues in the past, they have addressed them and are doing a very good job in managing the upper part of the mountain.

This bill uses taxpayers fund to pay for a 9 member governing board which includes the head of OHA and 3 other members who's first requirement is to be native Hawaiian. Thus this governing board has 44% of its members selected based on their ethnicity. This does not represent the population of Hawaii, or the Island of Hawaii. The board also appoints no one from the astronomy community.

This Bill proposes to return the mountain to its natural state above the 9200ft level, so it intends to get rid of all the telescopes and the road to the summit? Who will have access to the mountain? will it be only for native Hawaiians?

The bill, in spite of saying that the mountain will return to its natural state, indicates that it will raise funds from lease terms, toll fees, observatory use fees...so does the state plan to collect fees from observatories even after they have been removed?

The astronomy industry injects over \$100 million dollars annually into the State's economy, so are we willing to lose this?

This is a very poorly conceived bill, that does nothing to improve the condition of native Hawaiians, nor the economic advancement of the state.

For these and many other reasons I strongly oppose this bill.

Mahalo

HB-2024

Submitted on: 2/16/2022 3:42:24 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
I. Robert Nehmad	Individual	Oppose	No

Comments:

Aloha Chairs Tarnas, Nakashima, Luke, Vice Chairs Branco, Matayoshi, Yamashita, and members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

I am writing today to testify AGAINST HB2024.

I commend the Mauna Kea Working Group and Speaker Saiki for continuing dialogue on the important issue of managing Mauna Kea. The group was given an impossible task - finding an alternative governing model for Mauna Kea that satisfies the TMT protesters and the rest of the State of Hawaii. The reality is that UH's management of Mauna Kea has been excellent and the major management failure of late has been the State's failure to enforce the law and arrest protesters unlawfully blockading the Mauna Kea Access Road to prevent the construction of the amazing Thirty Meter Telescope project. The creation of any new governing entity will merely serve to delay TMT and the renewal of the lease that governs the telescopes which expires in 2033. This is, of course, the protesters' objective, but it should not be the State of Hawaii's. I believe this new governance model proposal should be abandoned in favor of continuing UH's management under UH's new proposed plan and structure. Please do not pass this bill out of your committees.

To the extent this effort continues on, I have the following comments on HB2024:

1. The legislation currently proposes excluding the astronomy industry from having a seat on the board of the new proposed Mauna Kea management entity. The telescopes on Mauna Kea and the University of Hawaii maintain the access road and provide billions of dollars in investment and jobs to our economy. At a minimum the astronomy industry deserves a seat on the board tasked with management of Mauna Kea, either through the Mauna Kea Observatories group or the University of Hawaii, if not both.

2. Section 6 currently states that the authority shall establish a plan for eliminating astronomy on Mauna Kea. Astronomy on Mauna Kea provides unique educational opportunities, valuable high skill internships, and quality employment opportunities for the next generation of Hawaii. Eliminating astronomy would be a harsh setback for our children and is not an acceptable option.

3. The legislation should include amendments to criminal statutes to allow for harsher punishments and quicker enforcement for blocking of public roadways. We do not want to end up like Canada.

3. The legislation includes a requirement that Mauna Kea above the 6500 foot elevation line be managed under HRS 205A, which governs "Coastal Lands". There is no explanation for why the summit of Mauna Kea, which by definition in this legislation is 6500 feet higher than the coastline, would be governed as "coastal land". The most probable reason is that the protesters know this is a much more restrictive zoning classification that could be used to completely exclude astronomy from the summit. This is obviously unacceptable. No zoning changes should be made that would endanger the astronomy industry on Mauna Kea.

4. All implication that Mauna Kea is "sacred" to all Native Hawaiians should be removed. Mauna Kea is not sacred as a Native Hawaiian matter, as you can read about here: <https://tinyurl.com/Hawaiians4TMT>. While some people might maintain beliefs in the kapu religion, and as part of their belief think Mauna Kea is sacred, their beliefs are not authoritative as a Native Hawaiian matter. Our ali`i abolished the kapu religion over 200 years ago and our constitution prohibits the government from establishing a religion. Thus, any mentions of sacredness must explain this nuance and explain that there are also Native Hawaiians who do not think Mauna Kea is sacred, or who think its sacredness is enhanced by the use of Mauna Kea for astronomy.

Mahalo nui loa,

Respectfully

I. Robert Nehmad

HB-2024

Submitted on: 2/16/2022 3:42:53 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Robin R Kennedy	Individual	Oppose	No

Comments:

Subj: Testimony AGAINST HB2024 - Hearing on 2/19/2022 9am

Aloha Chairs Tarnas, Nakashima, Luke, Vice Chairs Branco, Matayoshi, Yamashita, and members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

I am writing today to testify AGAINST HB2024.

I commend the Mauna Kea Working Group and Speaker Saiki for continuing dialogue on the important issue of managing Mauna Kea. The group was given an impossible task - finding an alternative governing model for Mauna Kea that satisfies the TMT protesters and the rest of the State of Hawaii. The reality is that UH's management of Mauna Kea has been excellent and the major management failure of late has been the State's failure to enforce the law and arrest protesters unlawfully blockading the Mauna Kea Access Road to prevent the construction of the amazing Thirty Meter Telescope project. The creation of any new governing entity will merely serve to delay TMT and the renewal of the lease that governs the telescopes which expires in 2033. This is, of course, the protesters' objective, but it should not be the State of Hawaii's. I believe this new governance model proposal should be abandoned in favor of continuing UH's management under UH's new proposed plan and structure. Please do not pass this bill out of your committees.

To the extent this effort continues on, I have the following comments on HB2024:

1. The legislation currently proposes excluding the astronomy industry from having a seat on the board of the new proposed Mauna Kea management entity. The telescopes on Mauna Kea and the University of Hawaii maintain the access road and provide billions of dollars in investment and jobs to our economy. At a minimum the astronomy industry deserves a seat on the board tasked with management of Mauna Kea, either through the Mauna Kea Observatories group or the University of Hawaii, if not both.
2. Section 6 currently states that the authority shall establish a plan for eliminating astronomy on Mauna Kea. Astronomy on Mauna Kea provides unique educational opportunities, valuable high skill internships, and quality employment opportunities for the next generation of Hawaii. Eliminating astronomy would be a harsh setback for our children and is not be acceptable.
3. The legislation should include amendments to criminal statutes to allow for harsher

punishments and quicker enforcement for blocking of public roadways. We do not want to end up like Canada.

3. The legislation includes a requirement that Mauna Kea above the 6500 foot elevation line be managed under HRS 205A, which governs "Coastal Lands". There is no explanation for why the summit of Mauna Kea, which by definition in this legislation is 6500 feet higher than the coastline, would be governed as "coastal land". The most probable reason is that the protesters know this is a much more restrictive zoning classification that could be used to completely exclude astronomy from the summit. This is obviously unacceptable. No zoning changes should be made that would endanger the astronomy industry on Mauna Kea.

4. All implication that Mauna Kea is "sacred" to all Native Hawaiians should be removed. Mauna Kea is not sacred as a Native Hawaiian matter, as you can read about here: <https://tinyurl.com/Hawaiians4TMT>. While some people might maintain beliefs in the kapu religion, and as part of their belief think Mauna Kea is sacred, their beliefs are not authoritative as a Native Hawaiian matter. Our ali`i abolished the kapu religion over 200 years ago and our constitution prohibits the government from establishing a religion. Thus, any mentions of sacredness must explain this nuance and explain that there are also Native Hawaiians who do not think Mauna Kea is sacred, or who think its sacredness is enhanced by the use of Mauna Kea for astronomy.

Mahalo nui loa,

Robin Kennedy, [House District 50](#)

HB-2024

Submitted on: 2/16/2022 3:54:41 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Patricia Kassis	Individual	Oppose	No

Comments:

Aloha Chairs Tarnas, Nakashima, Luke, Vice Chairs Branco, Matayoshi, Yamashita, and members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

I am writing today to testify AGAINST HB2024.

I commend the Mauna Kea Working Group and Speaker Saiki for continuing dialogue on the important issue of managing Mauna Kea. The group was given an impossible task - finding an alternative governing model for Mauna Kea that satisfies the TMT protesters and the rest of the State of Hawaii. The reality is that UH's management of Mauna Kea has been excellent and the major management failure of late has been the State's failure to enforce the law and arrest protesters unlawfully blockading the Mauna Kea Access Road to prevent the construction of the amazing Thirty Meter Telescope project. The creation of any new governing entity will merely serve to delay TMT and the renewal of the lease that governs the telescopes which expires in 2033. This is, of course, the protesters' objective, but it should not be the State of Hawaii's. I believe this new governance model proposal should be abandoned in favor of continuing UH's management under UH's new proposed plan and structure. Please do not pass this bill out of your committees.

To the extent this effort continues on, I have the following comments on HB2024:

1. The legislation currently proposes excluding the astronomy industry from having a seat on the board of the new proposed Mauna Kea management entity. The telescopes on Mauna Kea and the University of Hawaii maintain the access road and provide billions of dollars in investment and jobs to our economy. At a minimum the astronomy industry deserves a seat on the board tasked with management of Mauna Kea, either through the Mauna Kea Observatories group or the University of Hawaii, if not both.
2. Section 6 currently states that the authority shall establish a plan for eliminating astronomy on Mauna Kea. Astronomy on Mauna Kea provides unique educational opportunities, valuable high skill internships, and quality employment opportunities for the next generation of Hawaii. Eliminating astronomy would be a harsh setback for our children and is not be acceptable.
3. The legislation should include amendments to criminal statutes to allow for harsher punishments and quicker enforcement for blocking of public roadways.

3. The legislation includes a requirement that Mauna Kea above the 6500 foot elevation line be managed under HRS 205A, which governs "Coastal Lands". There is no explanation for why the summit of Mauna Kea, which by definition in this legislation is 6500 feet higher than the coastline, would be governed as "coastal land". The most probable reason is that the protesters know this is a much more restrictive zoning classification that could be used to completely exclude astronomy from the summit. This is obviously unacceptable. No zoning changes should be made that would endanger the astronomy industry on Mauna Kea.

4. All implication that Mauna Kea is "sacred" to all Native Hawaiians should be removed. Mauna Kea is not sacred as a Native Hawaiian matter, as you can read about here: <https://tinyurl.com/Hawaiians4TMT>. While some people might maintain beliefs in the kapu religion, and as part of their belief think Mauna Kea is sacred, their beliefs are not authoritative as a Native Hawaiian matter. Our ali`i abolished the kapu religion over 200 years ago and our constitution prohibits the government from establishing a religion. Thus, any mentions of sacredness must explain this nuance and explain that there are also Native Hawaiians who do not think Mauna Kea is sacred, or who think its sacredness is enhanced by the use of Mauna Kea for astronomy.

Mahalo nui loa,

Patricia Kassis, Kamuela

HB-2024

Submitted on: 2/16/2022 3:55:36 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Geoff Nelson	Individual	Oppose	No

Comments:

This is a terrible bill. Please support the new UH management plan.

HB-2024

Submitted on: 2/16/2022 3:57:48 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Daniel Hodel	Individual	Oppose	No

Comments:

Aloha Chairs Tarnas, Nakashima, Luke, Vice Chairs Branco, Matayoshi, Yamashita, and members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

I am writing today to testify AGAINST HB2024.

I commend the Mauna Kea Working Group and Speaker Saiki for continuing dialogue on the important issue of managing Mauna Kea. The group was given an impossible task: finding an alternative governing model for Mauna Kea that satisfies the Thirty Meter Telescope protesters and the rest of the State of Hawaii, a majority who favor astronomy on Mauna Kea and the TMT project. **In fact, UH's management of Mauna Kea has been excellent and the major management failure of late has been the State's failure to enforce the law and arrest protesters unlawfully blockading the Mauna Kea Access Road to prevent the construction of the TMT project.** Creation of any new governing entity will just delay TMT and the renewal of the lease that governs the telescopes, which expires in 2033. This is, of course, the protesters' objective, but it should not be the State of Hawaii's. **I believe this new governance model proposal should be abandoned in favor of continuing UH's management under UH's new proposed plan and structure. Please do not pass this bill out of your committees.**

To the extent this effort continues on, I concur with the following observations on HB2024:

1. The legislation currently proposes excluding the astronomy industry from having a seat on the board of the new proposed Mauna Kea management entity. The telescopes on Mauna Kea and the University of Hawaii maintain the access road and provide billions of dollars in investment and jobs to our economy. **The astronomy industry deserves multiple seats on the board tasked with management of Mauna Kea, including both the Mauna Kea Observatories group and the University of Hawaii.**

2. Section 6 currently states that the authority shall establish a plan for eliminating astronomy on Mauna Kea. Astronomy on Mauna Kea provides unique educational opportunities, valuable high skill internships, and quality employment opportunities for the next generation of Hawaii. **Eliminating astronomy would be a harsh setback for our children and is not acceptable. It would be akin to giving over the governing of the United States to the Jan. 6 insurrectionists because they make the most noise.**

3. **The legislation should include amendments to criminal statutes to allow for harsher**

punishments and quicker enforcement for blocking of public roadways. We do not want to end up like Canada.

3. The legislation includes a requirement that Mauna Kea above the 6500 foot elevation line be managed under HRS 205A, which governs "Coastal Lands". This is ridiculous on its face. The protesters know this is a much more restrictive zoning classification that could be used to completely exclude astronomy from the summit. This is obviously unacceptable. **No zoning changes should be made that would endanger astronomy on Mauna Kea.**

4. All implication that Mauna Kea is "sacred" to all Native Hawaiians should be removed. Mauna Kea is not sacred as a Native Hawaiian matter, as you can read about here: <https://tinyurl.com/Hawaiians4TMT>. While some people might maintain beliefs in the kapu religion, and as part of their belief think Mauna Kea is sacred, their beliefs are not authoritative as a Native Hawaiian matter. Our ali`i abolished the kapu religion over 200 years ago and our constitution prohibits the government from establishing a religion. Thus, any mentions of sacredness must explain this nuance and explain that there are also Native Hawaiians who do not think Mauna Kea is sacred, or who think its sacredness is enhanced by the use of Mauna Kea for astronomy.

Mahalo nui loa,
G. Daniel Hodel, House District 6

HB-2024

Submitted on: 2/16/2022 4:26:56 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jason Cabral	Individual	Oppose	No

Comments:

Maunakea is a special place in Hawaii and as such should be protected and cared for properly. This bill makes it nearly impossible to do so properly. Creating an additional agency specifically for this purpose is an inefficient use of resources and will ultimately result in worse care for Maunakea than is currently being given.

The verbiage in the bill specifically to remove commercial tour operations will have immediate and significant impact not only with regards to care for Maunakea, but will also have significant economic impact on residents of the island. One of the best ways to make sure that our precious space is preserved is to ensure that visitors are able to experience its majesty. Commercial operators consistently provide safe, managed access to Maunakea allowing these visitors to appreciate its beauty.

Removal of commercial tour operations from Maunakea will also have a significant economic impact for residents. I am currently employed by one of the operators currently permitted on Maunakea and make great efforts to educate visitors about Hawaiian culture, history, the significance of Maunakea, along with astronomy. Removal of these options will result in a severe economic impact to myself, my colleagues, and my family.

Please vote against this bill.

HB-2024

Submitted on: 2/16/2022 4:28:57 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Christopher Tipton	Individual	Oppose	No

Comments:

I write to oppose bill HB2024. If this became law, construction of the TMT would only be further delayed. After it passed all legal hurdles thrown at it year after year, TMT was delayed only due to the state of Hawaii giving into an illegal blockade. Such actions should not be rewarded via HB2024.

HB-2024

Submitted on: 2/16/2022 4:33:54 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Shannon Murphy	Individual	Oppose	No

Comments:

Aloha TMT Supporters,

This Saturday, February 19, 2022, at 9:00 am, [HB2024](#) will come for [hearing](#) before the House Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance. HB2024 is the legislation developed based on the deeply flawed [final report](#) produced by the [Mauna Kea Working Group](#) (MKWG).

Unfortunately, the legislation created is flawed in numerous respects and it would actually be better to simply scrap this proposed plan and continue forward with the current UH management structure under UH's new master plan. Ultimately, that means we need to stop this bill. Please submit testimony AGAINST HB2024. You can submit testimony through the legislature's website for the bill, https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=2024, or by emailing all of the following:

repluke@Capitol.hawaii.gov
repyamashita@Capitol.hawaii.gov
repnakashima@Capitol.hawaii.gov
repmatayoshi@Capitol.hawaii.gov
reptarnas@Capitol.hawaii.gov
repbranco@Capitol.hawaii.gov

Please send comments by January 17, 2022!

Here is a **draft comment** to give you ideas. Feel free to use it verbatim or to type your own message from the heart:

Subj: Testimony AGAINST HB2024 - Hearing on 2/19/2022 9am

Aloha Chairs Tarnas, Nakashima, Luke, Vice Chairs Branco, Matayoshi, Yamashita, and

members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

I am writing today to testify AGAINST HB2024.

I commend the Mauna Kea Working Group and Speaker Saiki for continuing dialogue on the important issue of managing Mauna Kea. The group was given an impossible task - finding an alternative governing model for Mauna Kea that satisfies the TMT protesters and the rest of the State of Hawaii. The reality is that UH's management of Mauna Kea has been excellent and the major management failure of late has been the State's failure to enforce the law and arrest protesters unlawfully blockading the Mauna Kea Access Road to prevent the construction of the amazing Thirty Meter Telescope project. The creation of any new governing entity will merely serve to delay TMT and the renewal of the lease that governs the telescopes which expires in 2033. This is, of course, the protesters' objective, but it should not be the State of Hawaii's. I believe this new governance model proposal should be abandoned in favor of continuing UH's management under UH's new proposed plan and structure. Please do not pass this bill out of your committees.

To the extent this effort continues on, I have the following comments on HB2024:

1. The legislation currently proposes excluding the astronomy industry from having a seat on the board of the new proposed Mauna Kea management entity. The telescopes on Mauna Kea and the University of Hawaii maintain the access road and provide billions of dollars in investment and jobs to our economy. At a minimum the astronomy industry deserves a seat on the board tasked with management of Mauna Kea, either through the Mauna Kea Observatories group or the University of Hawaii, if not both.
2. Section 6 currently states that the authority shall establish a plan for eliminating astronomy on Mauna Kea. Astronomy on Mauna Kea provides unique educational opportunities, valuable high skill internships, and quality employment opportunities for the next generation of Hawaii. Eliminating astronomy would be a harsh setback for our children and is not be acceptable.
3. The legislation should include amendments to criminal statutes to allow for harsher punishments and quicker enforcement for blocking of public roadways. We do not want to end up like Canada.
3. The legislation includes a requirement that Mauna Kea above the 6500 foot elevation line be managed under HRS 205A, which governs "Coastal Lands". There is no explanation for why the summit of Mauna Kea, which by definition in this legislation is 6500 feet higher than the coastline, would be governed as "coastal land". The most probable reason is that the protesters know this is a much more restrictive zoning classification that could be used to completely exclude astronomy from the summit. This is obviously unacceptable. No zoning changes should be made that would endanger the astronomy industry on Mauna Kea.
4. All implication that Mauna Kea is "sacred" to all Native Hawaiians should be removed. Mauna Kea is not sacred as a Native Hawaiian matter, as you can read about here: <https://tinyurl.com/Hawaiians4TMT>. While some people might maintain beliefs in the

kapu religion, and as part of their belief think Mauna Kea is sacred, their beliefs are not authoritative as a Native Hawaiian matter. Our ali`i abolished the kapu religion over 200 years ago and our constitution prohibits the government from establishing a religion. Thus, any mentions of sacredness must explain this nuance and explain that there are also Native Hawaiians who do not think Mauna Kea is sacred, or who think its sacredness is enhanced by the use of Mauna Kea for astronomy.

HB-2024

Submitted on: 2/16/2022 4:40:33 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Paul Hirst	Individual	Oppose	No

Comments:

Subj: Testimony AGAINST HB2024 - Hearing on 2/19/2022 9am

Aloha Chairs Tarnas, Nakashima, Luke, Vice Chairs Branco, Matayoshi, Yamashita, and members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

I am writing today to testify AGAINST HB2024.

I commend the Mauna Kea Working Group and Speaker Saiki for continuing dialogue on the important issue of managing Mauna Kea. The group was given an impossible task - finding an alternative governing model for Mauna Kea that satisfies the TMT protesters and the rest of the State of Hawaii. The reality is that UH's management of Mauna Kea has been excellent and the major management failure of late has been the State's failure to enforce the law and arrest protesters unlawfully blockading the Mauna Kea Access Road to prevent the construction of the amazing Thirty Meter Telescope project. The creation of any new governing entity will merely serve to delay TMT and the renewal of the lease that governs the telescopes which expires in 2033. This is, of course, the protesters' objective, but it should not be the State of Hawaii's. I believe this new governance model proposal should be abandoned in favor of continuing UH's management under UH's new proposed plan and structure. Please do not pass this bill out of your committees.

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2. Section 6 currently states that the authority shall establish a plan for eliminating astronomy on Mauna Kea. Astronomy on Mauna Kea provides unique educational opportunities, valuable high skill internships, and quality employment opportunities for the next generation of Hawaii. Eliminating astronomy would be a harsh setback for our children and is not be acceptable.
3. The legislation should include amendments to criminal statutes to allow for harsher

punishments and quicker enforcement for blocking of public roadways. We do not want to end up like Canada.

3. The legislation includes a requirement that Mauna Kea above the 6500 foot elevation line be managed under HRS 205A, which governs "Coastal Lands". There is no explanation for why the summit of Mauna Kea, which by definition in this legislation is 6500 feet higher than the coastline, would be governed as "coastal land". The most probable reason is that the protesters know this is a much more restrictive zoning classification that could be used to completely exclude astronomy from the summit. This is obviously unacceptable. No zoning changes should be made that would endanger the astronomy industry on Mauna Kea.

4. All implication that Mauna Kea is "sacred" to all Native Hawaiians should be removed. Mauna Kea is not sacred as a Native Hawaiian matter, as you can read about here: <https://tinyurl.com/Hawaiians4TMT>. While some people might maintain beliefs in the kapu religion, and as part of their belief think Mauna Kea is sacred, their beliefs are not authoritative as a Native Hawaiian matter. Our ali`i abolished the kapu religion over 200 years ago and our constitution prohibits the government from establishing a religion. Thus, any mentions of sacredness must explain this nuance and explain that there are also Native Hawaiians who do not think Mauna Kea is sacred, or who think its sacredness is enhanced by the use of Mauna Kea for astronomy.

Mahalo nui loa,

Paul Hirst, House district 2

HB-2024

Submitted on: 2/16/2022 4:40:43 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jackson Murphy	Individual	Oppose	No

Comments:

I commend the Mauna Kea Working Group and Speaker Saiki for continuing dialogue on the important issue of managing Mauna Kea. The group was given an impossible task - finding an alternative governing model for Mauna Kea that satisfies the TMT protesters and the rest of the State of Hawaii. The reality is that UH's management of Mauna Kea has been excellent and the major management failure of late has been the State's failure to enforce the law and arrest protesters unlawfully blockading the Mauna Kea Access Road to prevent the construction of the amazing Thirty Meter Telescope project. The creation of any new governing entity will merely serve to delay TMT and the renewal of the lease that governs the telescopes which expires in 2033. This is, of course, the protesters' objective, but it should not be the State of Hawaii's. I believe this new governance model proposal should be abandoned in favor of continuing UH's management under UH's new proposed plan and structure. Please do not pass this bill out of your committees.

To the extent this effort continues on, I have the following comments on HB2024:

1. The legislation currently proposes excluding the astronomy industry from having a seat on the board of the new proposed Mauna Kea management entity. The telescopes on Mauna Kea and the University of Hawaii maintain the access road and provide billions of dollars in investment and jobs to our economy. At a minimum the astronomy industry deserves a seat on the board tasked with management of Mauna Kea, either through the Mauna Kea Observatories group or the University of Hawaii, if not both.
2. Section 6 currently states that the authority shall establish a plan for eliminating astronomy on Mauna Kea. Astronomy on Mauna Kea provides unique educational opportunities, valuable high skill internships, and quality employment opportunities for the next generation of Hawaii. Eliminating astronomy would be a harsh setback for our children and is not be acceptable.
3. The legislation should include amendments to criminal statutes to allow for harsher punishments and quicker enforcement for blocking of public roadways. We do not want to end up like Canada.
3. The legislation includes a requirement that Mauna Kea above the 6500 foot elevation line be managed under HRS 205A, which governs "Coastal Lands". There is no explanation for why the summit of Mauna Kea, which by definition in this legislation is 6500 feet higher than the coastline, would be governed as "coastal land". The most probable reason is that the protesters

know this is a much more restrictive zoning classification that could be used to completely exclude astronomy from the summit. This is obviously unacceptable. No zoning changes should be made that would endanger the astronomy industry on Mauna Kea.

4. All implication that Mauna Kea is "sacred" to all Native Hawaiians should be removed. Mauna Kea is not sacred as a Native Hawaiian matter, as you can read about here: <https://tinyurl.com/Hawaiians4TMT>. While some people might maintain beliefs in the kapu religion, and as part of their belief think Mauna Kea is sacred, their beliefs are not authoritative as a Native Hawaiian matter. Our ali'i abolished the kapu religion over 200 years ago and our constitution prohibits the government from establishing a religion. Thus, any mentions of sacredness must explain this nuance and explain that there are also Native Hawaiians who do not think Mauna Kea is sacred, or who think its sacredness is enhanced by the use of Mauna Kea for astronomy.

HB-2024

Submitted on: 2/16/2022 4:50:54 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Hugo	Individual	Oppose	No

Comments:

I am writing in opposition of this bill. The astronomy community has repeatedly met moving goal posts and previous rulings have already been through their processes. It would be unjust to ignore them. The alarming need for diversification in the economy, an expansion of sciences, and the other benefits haven't changed, nor should they. I am against the passage of this bill.

HB-2024

Submitted on: 2/16/2022 4:59:47 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Cynthia Urry	Individual	Oppose	No

Comments:

Please stop this flawed bill so a better solution can be found . This is too important to let it go as it is written.

Mahalo Nui Loa ~ Cynthia Urry

HB-2024

Submitted on: 2/16/2022 5:00:43 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Robert Lee	Individual	Oppose	No

Comments:

This bill is totally flawed.

Scrap it and start over!

HB-2024

Submitted on: 2/16/2022 5:24:18 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
John Sodeyama	Individual	Oppose	No

Comments:

As a tour guide specializing in the Maunakea summit tours, I oppose HB2024, especially Section 11 which states about prohibiting commercial use and activities above Hale Pohaku.

The commercial activities on Maunakea are already limited to 7 companies with a limited number of vehicles per day. All the tour guides are dedicated to promoting and educating a deep appreciation of and respect for the natural beauty and the Hawaiian culture. Hence the guests on the commercial tours really understand the importance of respecting the nature and the culture of Maunakea. I would rather see a proposal to limit the general tourists who often behave disrespectfully.

Thank you.

Subj: Testimony **AGAINST** HB2024 - Hearing on 2/19/2022 9am

Aloha Chairs Tarnas, Nakashima, Luke, Vice Chairs Branco, Matayoshi, Yamashita, and members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

I am writing today to testify **AGAINST** HB2024.

I commend the Mauna Kea Working Group and Speaker Saiki for continuing dialogue on the important issue of managing Mauna Kea. The group was given an impossible task - finding an alternative governing model for Mauna Kea that satisfies the TMT protesters and the rest of the State of Hawaii. The reality is that UH's management of Mauna Kea has been excellent and the major management failure of late has been the State's failure to enforce the law and arrest protesters unlawfully blockading the Mauna Kea Access Road to prevent the construction of the amazing Thirty Meter Telescope project. The creation of any new governing entity will merely serve to delay TMT and the renewal of the lease that governs the telescopes which expires in 2033. This is, of course, the protesters' objective, but it should not be the State of Hawaii's. I believe this new governance model proposal should be abandoned in favor of continuing UH's management under UH's new proposed plan and structure. Please do not pass this bill out of your committees.

To the extent this effort continues on, I have the following comments on HB2024:

1. The legislation currently proposes excluding the astronomy industry from having a seat on the board of the new proposed Mauna Kea management entity. The telescopes on Mauna Kea and the University of Hawaii maintain the access road and provide billions of dollars in investment and jobs to our economy. At a minimum the astronomy industry deserves a seat on the board tasked with management of Mauna Kea, either through the Mauna Kea Observatories group or the University of Hawaii, if not both.
2. Section 6 currently states that the authority shall establish a plan for eliminating astronomy on Mauna Kea. Astronomy on Mauna Kea provides unique educational opportunities, valuable high skill internships, STEM careers and quality employment opportunities for our citizens, and a vital scientific resource for humankind. Eliminating astronomy would be a harsh setback not only for Hawaii and our economy, but for the world of scientific research. This must not happen. Astronomy on Mauna Kea, if well managed, is Hawaii's gift to the world.
3. The legislation should include amendments to criminal statutes to allow for harsher punishments and quicker enforcement for blocking of public roadways, illegal encampments, dumping trash, and erecting unpermitted structures on State lands.
3. The legislation includes a requirement that Mauna Kea above the 6500 foot elevation

line be managed under HRS 205A, which governs "Coastal Lands". There is no explanation for why the summit of Mauna Kea, which by definition in this legislation is 6500 feet higher than the coastline, would be governed as "coastal land". The most probable reason is that the protesters know this is a much more restrictive zoning classification that could be used to completely exclude astronomy from the summit. This is unacceptable. No zoning changes should be made that would endanger the astronomy industry on Mauna Kea.

4. All implications that Mauna Kea is "sacred" to all Native Hawaiians should be removed. Mauna Kea is not sacred as a Native Hawaiian matter, as you can read about here: <https://tinyurl.com/Hawaiians4TMT>. While some people might maintain beliefs in the kapu religion, which was abolished in 1819 by King Kamehameha II, and as part of their belief think Mauna Kea is sacred, their beliefs are not authoritative as a Native Hawaiian matter. Our aliʻi abolished the kapu religion over 200 years ago and our constitution prohibits the government from establishing a religion. Thus, any mentions of sacredness must explain this nuance and explain that there are also Native Hawaiians who do not think Mauna Kea is sacred, or who think its sacredness is enhanced by the use of Mauna Kea for astronomy.

Mahalo nui loa,

A handwritten signature in black ink, appearing to be 'DAC' with a stylized flourish at the end.

David A. Cox, House District 5

HB-2024

Submitted on: 2/16/2022 5:33:58 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jeffrey P Manzo	Individual	Oppose	No

Comments:

Aloha to Whom it May Concern.

I am an employee of Hawaii Forest and Trail and have been conducting tours to the summit of Maunakea with HFT since 2016. I would like to inform all agencies so they will know the positive role Hawaii Forest and Trail plays on the mountain. We provide safely guided tours into rare, fragile habitats, under very tightly controlled conditions. All while helping to reduce traffic and incidents on the mountain. Educating visitors about Hawaii's native culture and fragile ecosystems is also a big part of what we do as a company.

Also, taking people safely to the summit of Maunakea is my job, my employment, my livelihood. Having commercial operators restricted from being able to go to Maunakea summit directly impacts myself and my family's livelihood. As an employee of Hawaii Forest & Trail I depend on my job to support my family while trying to survive in this challenging and increasingly costly state to live in. Mahalo for your consideration.

Jeffrey P. Manzo

68-1736 Akaula Pl

Waikoloa HI 96738

Jeffmanzo1@gmail.com

808-756-3492

HB-2024

Submitted on: 2/16/2022 5:56:29 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ronald Lynch	Individual	Oppose	No

Comments:

I am writing to voice my strong opposition to HB2024. I believe the University of Hawaii has done a very fine job of managing Mauna Kea as evidenced by the collection of world-class telescopes and acquiring a permit for constructing the Thirty Meter Telescope (TMT).

Astronomy is one of the purest of sciences since its discoveries contribute to our understanding of the universe but can seldom if ever be turned into commercial products. There is no other place on Earth that is more ideal for conducting astronomical observations than Mauna Kea. Although space-based telescopes have some advantages, they are severely limited in size and maintainability leaving a critical role for ground-based telescopes such as those currently on Mauna Kea and the proposed Thirty Meter Telescope.

Astronomy has been and continues to be a "good neighbor" and the entire state benefits from its presence both in prestige and in more immediate ways such as job creation and infrastructure improvements. If UH's master lease is not renewed, it could jeopardize or delay construction of the Thirty Meter Telescope and might call into question the validity of the subleases used by the existing astronomical facilities.

This bill would create a new governing authority which would further delay TMT and the renewal of the lease for the telescopes. Even worse, it would require the authority to establish a plan for eliminating astronomical facilities on Mauna Kea and exclude members of the astronomy community from sitting on the board of the new agency.

I realize that a subset of the Native Hawaiian community are opposed to this renewal claiming rights to Mauna Kea on religious grounds. This point of view is not shared by the entire Native Hawaiian community. Moreover, all indications are that astronomy on Mauna Kea is overwhelmingly supported by the citizens of the State of Hawaii as a whole.

While I support the right of protestors to state their objections and to have their day in court (which they did), those who blocked the legally approved construction of the TMT were illegal obstructionist not protestors. Had the courts sided with the protestors they would have expected the rest of us to respect that decision but, having lost, some of them decided that the court ruling was invalid and implementation should be physically prevented. That is not the way things should work in a civilized society.

Respectfully Submitted,

Ronald A. Lynch

To the State Legislature:

I have a few concerns I feel deserve consideration regarding HB2024.

First, can the governor reject the nominees put forward to him or her?

OHA has not been transparent with their support of protesters, nor with their expenditures. They even refused to comply with the Hawaiian legislature who asked to view their accounts. Why should an entity that refuses to be honest and transparent about their actions have discretion for who sits on a board for stewardship of an area that is claimed to be sacred?

The Stewardship Authority “may” do things like enforce laws, but there is no stated obligation to do so. If a crime in progress happens on Mauna Kea—say, someone decides to ram a truck into a building, or individuals build unpermitted structures at Pu’uhuluhulu—the stewardship authority could elect to do nothing. It can prevent trespassing and other illegal activities on Mauna Kea lands; will it do so if protesters decide to block roads again due to a controversial decision? Would the Stewardship permit illegal activities, as has been suggested by OHA’s supposed support of the illegal road blocking on Mauna Kea? Would it restrict individuals from gathering snow, as is a common pastime by many Native Hawaiians? If laws can be enforced by other entities, it should be clear. There should also be clarity on whether it is obligated to enforce laws if there is no other enforcement permitted by law enforcement from other agencies.

On specific pages:

Page 12, (b)(2): “Protect native Hawaiian rights.” Is this necessary? Protesters were treated kindly and given great leeway, such that they were able to block the access road for weeks with minimal repercussions. There have been two contested case hearings, and challenges to both the sublease and the permit have been heard by the Hawaiian Supreme Court. Not getting what you want is not an infringement of rights. Alternatively, one could argue that the rights of Native Hawaiians who support astronomy on Mauna Kea have had their rights violated with illegal blockades and numerous frivolous lawsuits. Will their voices be heard as well?

Page 15:

With respect of returning the mauna to its “natural state”, does this include the 74 square miles of development for the adz quarry, which is larger than the city of Honolulu and existed prior to the unification of Hawaii? Does it include hiking trails, the access road, or other human created structures and cultural resources? This requires specificity and should be stated up front.

Everyone should have a say in what this means.

Page 16:

I'm perplexed why the jurisdiction is being expanded. If the current managing entities are apparently not managing it well, why do legislators think a new entity can do a better job maintaining a larger area? People who oppose astronomy on Mauna Kea have laid waste to Pu'uhuluhulu; why would they treat a larger area any better?

Page 23:

There is no sum or even an estimate listed for startup costs. Why not? Will it be funded \$0? \$1 billion? Something in between? This is insufficient. How can a lawmaker not even have a ballpark estimate?

Thank you for your consideration.

Sincerely,

Peter Maurer

Subj: Testimony AGAINST HB2024 - Hearing on 2/19/2022 9am

Aloha Chairs Tarnas, Nakashima, Luke, Vice Chairs Branco, Matayoshi, Yamashita, and members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

I am writing today to testify AGAINST HB2024.

I commend the Mauna Kea Working Group and Speaker Saiki for continuing dialogue on the important issue of managing Mauna Kea. The group was given an impossible task - finding an alternative governing model for Mauna Kea that satisfies the TMT protesters and the rest of the State of Hawaii. The creation of any new governing entity will merely serve to delay TMT and the renewal of the lease that governs the telescopes which expires in 2033. This is, of course, the protesters' objective, but it should not be the State of Hawaii's. I believe this new governance model proposal should in its current form be abandoned in favor of continuing UH's management under UH's new proposed plan and structure. Please do not pass this bill out of your committees without further considerations to the comments that follow.

To the extent this effort continues on, I have the following comments on HB2024:

1. The legislation currently proposes excluding the astronomy industry, which in my opinion are significant stakeholders, from having a seat on the board of the new proposed Mauna Kea management entity. The telescopes on Mauna Kea and the University of Hawaii maintain the access road and provide billions of dollars in investment and jobs to our economy. At a minimum the astronomy industry deserves a seat on the board tasked with management of Mauna Kea, either through the Mauna Kea Observatories group or the University of Hawaii, if not both.

2. Under "(b) The authority shall consist of nine voting members: seven members who shall be appointed by the governor subject to section 26-34 and two ex-officio members. The members shall include:", I may be misinterpreting the section but it appears the list defines SIX members to be appointed by the governor and THREE by OHA. If this is not the case can it be made clear which two nominated members in the list are "ex-officio"?

3. While I understand the preference for Native Hawaiian residents of the county of Hawaii, the management of lands is a Statewide, and at the very least, of import to ALL Native Hawaiians. As such I propose the preference be for Native Hawaiians but not limited to that of a single county.

4. Section 6 currently appears to state that the authority shall establish a plan for eliminating astronomy on Mauna Kea. Astronomy on Mauna Kea provides unique educational opportunities, valuable high skill internships, and quality employment opportunities for the next generation of Hawaii. Eliminating astronomy would be a harsh setback for our children and is not be acceptable. Though I can agree with limiting astronomy development, I would strongly oppose significant elimination of

the same. A provision must be made to prevent the authority from removing observatories w/o reserving the same land area for a future observatory.

5. The legislation should include amendments to criminal statutes to allow for harsher punishments and quicker enforcement for blocking of public roadways.

6. The legislation includes a requirement that Mauna Kea above the 6500 foot elevation line be managed under HRS 205A, which governs "Coastal Lands". There is no explanation for why the summit of Mauna Kea, which by definition in this legislation is 6500 feet higher than the coastline, would be governed as "coastal land". The most probable reason is that the protesters know this is a much more restrictive zoning classification that could be used to completely exclude astronomy from the summit. This is obviously unacceptable. No zoning changes should be made that would endanger the astronomy industry on Mauna Kea.

7. All implication that Mauna Kea is "sacred" to all Native Hawaiians should be removed. Mauna Kea is not sacred as a Native Hawaiian matter, as you can read about here: <https://tinyurl.com/Hawaiians4TMT>. While some people might maintain beliefs in the kapu religion, and as part of their belief think Mauna Kea is sacred, their beliefs are not authoritative as a Native Hawaiian matter. The ali`i abolished the kapu religion over 200 years ago and our constitution prohibits the government from establishing a religion. Thus, any mentions of sacredness must explain this nuance and explain that there are also Native Hawaiians who do not think Mauna Kea is sacred, or who think its sacredness is enhanced by the use of Mauna Kea for astronomy.

Mahalo nui loa,

Marvin Nakajima
in House District 23

Patti Cook

Box 6960, Kamuela, HI 96743
(808) 937-2833 – cookshi@aol.com
February 16, 2022

TESTIMONY OPPOSING HB 2024 – RELATING TO MAUNA KEA

Hearing: Saturday, Feb. 19, 2022 @ 9AM

COMMITTEE ON FINANCE

Rep. Sylvia Luke, Chair

COMMITTEE ON WATER & LAND

Rep. David A. Tarnas, Chair

Rep. Patrick Pihana Branco, Vice Chair

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. Mark M. Nakashima, Chair

Rep. Scot Z. Matayoshi, Vice Chair

Aloha Chairs Luke, Tarnas and Nakashima and Members of the Hawai'i State House Committees on Finance, Water & Land, and Judiciary & Hawaiian Affairs:

I strongly oppose HB2024 and am very disturbed about the harm this bill will inflict on the people of Hawai'i Island. I am further disturbed that this bill has emerged from what can best be described as a questionable process that attempts to re-invent public policy that has been in place and refined over the past 50+ years and repeatedly examined by the courts, about something so very important – culturally, historically, economically, environmentally and educationally - to our entire State.

I am not an attorney nor land use authority, but this bill's proposed creation of a Mauna Kea stewardship authority and the intended – or unintended – consequences certainly seem contrary to core tenants of the US and State Constitution.

As background, I have read the report by the State House of Representatives' Maunakea Working Group. I have also read many (not all) of the documents prepared throughout the past 15+ years related to astronomy on Maunakea, management of the mauna, and TMT's permitting process. I have attended numerous public meetings, too. I also actively participate in public policy issues related to the economic, educational, medical, social and cultural disparities that Hawai'i Island's children and families contend with. The disparities are in fact evident statewide, and have been made worse by the pandemic.

It would be naïve to ignore the pain and grievances of our native Hawaiian community. But HB2024 only exacerbate these issues; it will not heal nor remedy the issues.

While not perfect (nothing is), I do believe that in the past 10-12 years, management including cultural and environmental stewardship of the Maunakea has dramatically improved. Serious effort has occurred to better engage and involve the entire community in shared use decisions. Also, the permitting process for TMT significantly stepped up requirements, expectations and conditions – far surpassing what was imposed on the telescopes that received earlier permits.

The astronomy organizations currently operating on the Maunakea are there because (1) we invited them and (2) they underwent an extensive rule of law permitting process. Further, they

have in recent years demonstrated a stepped up understanding of the privilege and responsibilities they hold.

I also believe I have a pretty deep understanding of the issues our community, especially those of Hawaiian ancestry, face, from long-standing legitimate grievances that include being persistently marginalized in many ways which leave them struggling with serious trauma and poverty, as well as a sense of hopelessness in part due to inadequate healthcare, education, housing and choices.

This anger, fear, and sense of hopelessness must be addressed. But this bill does not address these concerns and in fact, only serves to further divide our community.

I am stunned – and saddened – that the stewardship authority that HB2024 prescribes would be given any standing when it does not envision “shared use” of the mauna. I am likewise very concerned that the proposed authority completely locks out the astronomy community in decision making.

I want our children to “run” the mauna and I believe they have the capacity to do this with the right supports.

Further, I believe we need astronomy both for the contribution it makes to mankind and because it can be a viable, clean economic, social, cultural, and environmental contributor to our community’s well-being.

The proposed stewardship authority in HB2024 negates all of this.

Please do not pursue this further. There is a legally sanctioned process in place that has already effectively stepped up management of the mauna.

Please further understand that deferring this bill does not mean your job is done. There is an extremely urgent need for our State’s public policy makers to address the issues faced by DLNR, DHHL, DOE and the University of Hawai’i to fulfill their kuleana in ways that address the economic, environmental, social and cultural disparities that exist for many in our community, especially those of Hawaiian ancestry.

Thank you.

Patti Cook

Waimea, Island of Hawai’i

HB-2024

Submitted on: 2/16/2022 8:39:00 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kenneth Hirsch, MD, PhD	Individual	Oppose	No

Comments:

Subj: Testimony AGAINST HB2024 - Hearing on 2/19/2022 9am

Aloha Chairs Tarnas, Nakashima, Luke, Vice Chairs Branco, Matayoshi, Yamashita, and members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

I am writing today to testify AGAINST HB2024. I feel that this bill is an entirely one-sided attempt to preempt control of Mauna Kea without regard to what is best for Hawaii, including consideration of the legitimate needs and desires of Native Hawaiians. It should be borne in mind that the Native Hawaiian community is not by any means united in opposition to TMT and the astronomy “industry”. There is a vocal constituency of Native Hawaiians which is opposed to development of Mauna Kea, including of course, telescopes, but this constituency does not appear to even constitute a majority among Native Hawaiians. There are legitimate questions as to the validity of claims of sacredness of Mauna Kea, as the “kapu religion” was abolished two centuries ago. There should, however, be respect for the environmental, cultural, etc. aspects of any development of Mauna Kea. This respect would best be manifested by management of development of Mauna Kea by a body representative of all stakeholders; this must include Native Hawaiians, UH, the “astronomy industry”, the State government and unaffiliated (with the foregoing) citizens of the State of Hawaii. As an aside, the notion that Mauna Kea should be governed in accordance with constraints of “coastal lands” is by definition ludicrous.

Mahalo,

Kenneth Hirsch

HB-2024

Submitted on: 2/16/2022 8:51:44 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Christoph Baranec	Individual	Oppose	No

Comments:

The University of Hawaii's management of Maunakea has been excellent and the major management failure of late has been the State's failure to enforce the law and arrest protesters unlawfully blockading the Access Road. The creation of any new governing entity will merely serve to delay TMT and the renewal of the lease that governs the telescopes which expires in 2033. This is, of course, the protesters' objective, but it should not be our state's objective. I believe this new governance model proposal should be abandoned in favor of continuing UH's management under UH's new proposed plan and structure. Please do not pass this bill out of your committees.

Daniel C. Smith
1961 Aamaka Pl.
Pearl City, HI 96782

February 16, 2022

The Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,
The House of Representatives
State of Hawaii

Subj: Testimony AGAINST HB2024 - Hearing on 2/19/2022 9am

Aloha Chairs Tarnas, Nakashima, Luke, Vice Chairs Branco, Matayoshi, Yamashita, and members of the
Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

I am writing today to testify AGAINST HB2024 in my private capacity as an educator.

Section 6 currently states that the authority shall establish a plan for eliminating astronomy on Mauna Kea. Astronomy on Mauna Kea provides unique educational opportunities, valuable high skill internships, economic development and quality employment opportunities for the next generations of Hawaii. Eliminating astronomy would be a harsh setback for our children and the majority of all people of Hawaii; it is not acceptable.

I urge you not to pass HB2024 out of your committees but to the extent the measure progresses, I have the following comments on HB2024:

1. The current draft legislation proposes excluding the astronomy industry from having a seat on the board of the new proposed Mauna Kea management entity. The telescopes on Mauna Kea and the University of Hawaii maintain the access road and provide billions of dollars in investment and jobs to our economy. At a minimum the astronomy industry deserves a seat on the board tasked with management of Mauna Kea, either through the Mauna Kea Observatories group or the University of Hawaii, if not both.
2. Remove any direction to plan for eliminating astronomy research on Mauna Kea.
3. The legislation should include amendments to criminal statutes to allow for quicker enforcement to remove blocking of public roadways. We do not want to end up like Canada.
4. The legislation includes a requirement that Mauna Kea above the 6,500 foot elevation line be managed under HRS 205A, which governs "Coastal Lands". There is no explanation for why the summit of Mauna Kea, which by definition in this legislation is 6,500 feet higher than the coastline, would be governed as "coastal land". The most probable reason is that the protesters know this is a much more restrictive zoning classification that could be used to completely exclude astronomy from the summit. This is obviously unacceptable. No zoning changes should be made that would endanger the astronomy industry on Mauna Kea.

5. All implication that Mauna Kea is "sacred" to all Native Hawaiians should be removed. Mauna Kea is not sacred as a Native Hawaiian matter, as you can read here: <https://tinyurl.com/Hawaiians4TMT> . While some people might maintain beliefs in the *kapu* religion, and as part of their belief think Mauna Kea is sacred, their beliefs are not authoritative as a Native Hawaiian matter. The *aliʻi* abolished the *kapu* religion over 200 years ago and our constitution prohibits the government from establishing a religion. Thus, any mention of sacredness must explain this nuance and explain that there are also many, perhaps a majority of, Native Hawaiians who do not think Mauna Kea is sacred, or who think its sacredness is enhanced by use of Mauna Kea for astronomy. The first Hawaiians arrived here using their knowledge of astronomy.

I commend the concept of a Mauna Kea Working Group and Speaker Saiki for continuing dialogue on the important issue of managing Mauna Kea. However, the group was given an impossible task - finding an alternative governing model for Mauna Kea that satisfies the current TMT protesters and the rest of the State of Hawaii. The reality is that UH's management of Mauna Kea is greatly improved in recent times and the major management failure of late has been the State's failure to enforce the law and prevent protesters from unlawfully blockading the Mauna Kea Access Road to prevent the construction of the amazing Thirty Meter Telescope project. The creation of any new governing entity will merely serve to delay TMT and the renewal of the lease that governs the telescopes which expires in 2033. This is, of course, the protesters' objective, but it should not be the State of Hawaii's. I believe this new governance model proposal should be abandoned in favor of continuing UH's management under UH's new proposed plan and structure.

Please do not pass HB2024 out of your committees; it is flawed and not in the best interests of Hawaiians and Hawaii.

Mahalo nui loa,

A handwritten signature in black ink that reads "Daniel C. Smith". The signature is written in a cursive, flowing style.

Daniel C. Smith, Ph.D.

HB-2024

Submitted on: 2/16/2022 9:38:15 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Joni Kamiya	Individual	Oppose	No

Comments:

Aloha Chairs and committee members,

I am writing to in opposition to this bill. As a parent of a child fascinated by black holes and newly discovered galaxies, I am hoping that our leaders follow the will of the people and not just a loud and intimidating minority to make the best decisions for the state of Hawaii. Like so many of the ancestors before us, we share a bond with them through the stars. I may not be of Native Hawaiian ancestry but my connection to my roots also are tied to the stars.

I get that there is political pressure to satisfy the demands of these protesters. I have blogged about their protests in Kaneohe some years back and was basically told that we have no need for astronomy. I see this as a short-lived, emotion-filled event and not an authentic connection to the past. No longer are we seeing hashtags and the same fervor anymore which leaves me to believe that it is not a sustainable cause. Are we taking action to invest in the future of our state or being pawns in hip movements with flashy slogans?

So many of us in Hawaii come from all over and they too gazed up at the stars that we see now. I always look up at the clear night and realize that the future generations too will share that bond if we foster the right environment for that to happen. It may be helpful to consider that thought when crafting bills if it will cultivate the seeds needed to grow our future.

HB-2024

Submitted on: 2/16/2022 9:56:59 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Virginia Hinshaw	Individual	Oppose	No

Comments:

I am writing to testify AGAINST HB2024. This new governance model proposal is deeply flawed and should be abandoned in favor of continuing UH's management under UH's new proposed plan and structure. There is great value to Hawaii and the world in supporting astronomy here in Hawaii in the strongest way possible. Please do not pass this bill - such a bill will undermine Hawaii's current and future leadership in astronomy, as well as eliminating opportunities for our citizens to benefit from jobs and support generated by these studies. Mahalo for your consideration. Virginia Hinshaw, District 18

HB-2024

Submitted on: 2/16/2022 10:09:11 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Nancy Taylor	Individual	Oppose	No

Comments:

I STRONGLY oppose HB 2024. Hawaii has waited many years for the opportunity to pursue further breakthrough development of astronomy infrastructure on Maunakea. Such development will provide prestige for Hawaii, the opportunity for important breakthroughs in astronomical research that will have worldwide impact on scientific knowledge and will provide a valuable and needed boost to Hawaii's economy producing high-tech employment for our citizens.

UH and the Center for Maunakea Stewardship is successfully managing Maunakea at the current time. This management should be applauded, enhanced, and continued.

HB 2024 turns possibility, potential and promise into lost opportunity I strongly oppose HB2024.

Thank you for your consideration of my strongly held opinion.

HB-2024

Submitted on: 2/16/2022 10:46:22 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Robbie Ann Shimose	Individual	Support	No

Comments:

Aloha members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance,

Thank you for the opportunity to provide written testimony in **SUPPORT** of **HB2024**. The proper stewardship of Mauna a Wākea has long been debated with numerous Native Hawaiian, environmental and community groups raising concerns over the decades.

Formal reviews have validated the community's concerns. The Hawai'i State Auditor's Office released reports in 1998, 2005, 2014, and 2017 that were critical of the University of Hawai'i's (UH) stewardship of Mauna a Wākea. Most recently, the Department of Land and Natural Resources' "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan" found that the while UH's management of Mauna a Wakea had improved, it failed to timely approve administrative rules; failed to consult with the Native Hawaiian community on cultural resources issues; and failed to engage with the community, particularly the Native Hawaiian community, on education and outreach efforts.

HR33, HD1, aimed to address these longstanding issues by establishing a Mauna Kea Working Group (Working Group) to provide recommendations to develop a new governance and management structure for Mauna a Wākea.

As supporters of a healthy and protected Mauna a Wākea, we strongly urge you to pass HB2024 with the following amendments:

- Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report - Ho'okikī Kānāwai, Kua'ā Kānāwai, Kai'okia Kānāwai, Kīho'iho'i Kānāwai;
- Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group's Report; and
- Add language that would require the University of Hawai'i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

In conclusion, the leadership of the House of Representatives declared a bold commitment to take steps towards economic, cultural, and environmental justice. Your support of HB2024 will

make good on your commitments to your constituents, and Hawai‘i’s precious natural and cultural resources.

Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group:

He lā hou kēia ma Mauna a Wākea.

A new day has indeed arrived on Mauna a Wākea.

Me ke aloha no Mauna a Wākea,

Robbie Ann Kauanoemaikalani Shimose

HB-2024

Submitted on: 2/16/2022 11:17:01 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Pete Wilson	Individual	Oppose	No

Comments:

Subj: Testimony AGAINST HB2024 - Hearing on 2/19/2022 9am

Aloha Chairs Tarnas, Nakashima, Luke, Vice Chairs Branco, Matayoshi, Yamashita, and members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

I am writing today to testify AGAINST HB2024.

I commend the Mauna Kea Working Group and Speaker Saiki for continuing dialogue on the important issue of managing Mauna Kea. The group was given an impossible task - finding an alternative governing model for Mauna Kea that satisfies the TMT protesters and the rest of the State of Hawaii. The reality is that UH's management of Mauna Kea has been excellent and the major management failure of late has been the State's failure to enforce the law and arrest protesters unlawfully blockading the Mauna Kea Access Road to prevent the construction of the amazing Thirty Meter Telescope project. The creation of any new governing entity will merely serve to delay TMT and the renewal of the lease that governs the telescopes which expires in 2033. This is, of course, the protesters' objective, but it should not be the State of Hawaii's. I believe this new governance model proposal should be abandoned in favor of continuing UH's management under UH's new proposed plan and structure. Please do not pass this bill out of your committees.

To the extent this effort continues on, I have the following comments on HB2024:

1. The legislation currently proposes excluding the astronomy industry from having a seat on the board of the new proposed Mauna Kea management entity. The telescopes on Mauna Kea and the University of Hawaii maintain the access road and provide billions of dollars in investment and jobs to our economy. At a minimum the astronomy industry deserves a seat on the board tasked with management of Mauna Kea, either through the Mauna Kea Observatories group or the University of Hawaii, if not both.
2. Section 6 currently states that the authority shall establish a plan for eliminating astronomy on Mauna Kea. Astronomy on Mauna Kea provides unique educational opportunities, valuable high skill internships, and quality employment opportunities for the next generation of Hawaii. Eliminating astronomy would be a harsh setback for our children and is not be acceptable.
3. The legislation should include amendments to criminal statutes to allow for harsher

punishments and quicker enforcement for blocking of public roadways. We do not want to end up like Canada.

3. The legislation includes a requirement that Mauna Kea above the 6500 foot elevation line be managed under HRS 205A, which governs "Coastal Lands". There is no explanation for why the summit of Mauna Kea, which by definition in this legislation is 6500 feet higher than the coastline, would be governed as "coastal land". The most probable reason is that the protesters know this is a much more restrictive zoning classification that could be used to completely exclude astronomy from the summit. This is obviously unacceptable. No zoning changes should be made that would endanger the astronomy industry on Mauna Kea.

4. All implication that Mauna Kea is "sacred" to all Native Hawaiians should be removed. Mauna Kea is not sacred as a Native Hawaiian matter, as you can read about here: <https://tinyurl.com/Hawaiians4TMT>. While some people might maintain beliefs in the kapu religion, and as part of their belief think Mauna Kea is sacred, their beliefs are not authoritative as a Native Hawaiian matter. Our ali`i abolished the kapu religion over 200 years ago and our constitution prohibits the government from establishing a religion. Thus, any mentions of sacredness must explain this nuance and explain that there are also Native Hawaiians who do not think Mauna Kea is sacred, or who think its sacredness is enhanced by the use of Mauna Kea for astronomy.

Mahalo nui loa,

Pete Wilson, [House District 2](#)

HB-2024

Submitted on: 2/17/2022 12:01:10 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Dr Marion Ceruti	Individual	Oppose	No

Comments:

I oppose HB2024 for the following reasons. First of all, I commend the Mauna Kea Working Group and Speaker Saiki for continuing dialogue on the important issue of managing Mauna Kea. The group had the impossible task of finding an alternative governing model for Mauna Kea that satisfies the TMT protesters and the rest of the State of Hawai'i. The fact of the matter is that UH's management of Mauna Kea has been excellent. In contrast, the recent, major management failure has been the State's failure to enforce the law and arrest protesters unlawfully blockading the Mauna Kea Access Road to prevent the construction of the excellent and much needed Thirty Meter Telescope project. The creation of any new governing entity will delay TMT and the renewal of the lease that governs the telescopes, which expires in 2033. This should not be the State of Hawaii's objective. The state should enforce the law. I strongly recommend discontinuing the new proposal for governance of the TMT in favor of continuing UH's management under UH's new proposed plan and structure. Please kill this bill now, while it is still under consideration in committees.

To the extent this ill-advised effort continues, I have the following comments on HB2024:

1. The legislation currently proposes excluding the astronomy industry from having a seat on the board of the new proposed Mauna Kea management entity. This is a serious omission and needs to be corrected. The telescopes on Mauna Kea and the University of Hawai'i maintain the access road and provide billions of dollars in investment and jobs to our economy. At a minimum the astronomical community deserves a seat on the board tasked with management of Mauna Kea, either through the Mauna Kea Observatories group or the University of Hawai'i, or both.
2. Section 6 currently states that the authority shall establish a plan for eliminating astronomy on Mauna Kea. This is the opposite of what should be done. Astronomy on Mauna Kea provides unique educational opportunities, valuable high skill internships, and quality employment opportunities for the next generation of Hawaii. Eliminating astronomy would be a harsh setback for our children and is totally unacceptable to the scientific community. It should be unacceptable to everyone.
3. The legislation should include amendments to criminal statutes to provide for harsher punishments and quicker enforcement for blocking of public roadways.
3. The legislation includes a requirement that Mauna Kea above the 6500 foot elevation line be managed under HRS 205A, which governs "Coastal Lands." No one can explain why the summit of Mauna Kea, which by definition in this legislation is 6500 feet higher than the coastline, would be governed as "coastal land." This makes no logical sense at all. The most

probable reason is that the protesters know this is a much more restrictive zoning classification that could be used to exclude astronomical observation from the summit. This is obviously unacceptable. No zoning changes should be made that would endanger the astronomy industry on Mauna Kea.

4. All implication that Mauna Kea is "sacred" to all Native Hawaiians should be removed. Mauna Kea is not sacred as a Native Hawaiian matter. For further information about this, see <https://tinyurl.com/Hawaiians4TMT>. Whereas some people might believe in the kapu religion, and as part of their belief think Mauna Kea is sacred, their beliefs are not authoritative as a Native Hawaiian matter. Our ali`i abolished the kapu religion over 200 years ago and our constitution prohibits the government from establishing a religion. Thus, any mention of "sacredness" in legislative text must explain this nuance and also explain that some Native Hawaiians do not think Mauna Kea is sacred, or who think its sacredness is enhanced by the use of Mauna Kea for astronomy.

HB-2024

Submitted on: 2/17/2022 7:10:45 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lucia Kaplan	Individual	Oppose	No

Comments:

Aloha, I am writing in opposition of HB2024 for the following reasons: 1. The Astronomy industry must have a seat at the table of the new Management Entity. 2. The Astronomy Industry must continue to have a presence on Mauna Kea. 2. There must be ammendments to criminal statutes for harsher penalties and quicker enforcement for blocking public access roads. 4. No zoning changes should be made that would eliminate the astronomy industry from the summit of Mauna Kea. 5. All implications of the sacredness of Mauna Kea by all Hawaiians must be removed from the Bill's language. Mahalo, Lucia Kaplan Kailua Kona, HI

TESTIMONY IN **SUPPORT OF HB 2024**, RELATING TO MAUNA KEA
Saturday, February 19, 2022

Honorable Chairpersons Representative David Tarnas, Chair, Water & Land, Representative Mark Nakashima, Judiciary & Hawaiian Affairs, Representative Sylvia Luke, Finance and Committees Members

Aloha kākou,

I submit this testimony in support of HB 2024, Relating to Mauna Kea. I am an active member of the Kahu Kū Mauna advisory council to the Mauna Kea Management Board and UH Hilo Chancellor in Hawaiian cultural matters affecting the Mauna Kea Science Reserve.

In review of the legislative report from the Mauna Kea Working Group committee, from which this bill was created, I note the following:

- The (4) kumu kānāwai are absent from this bill in its' current form. The importance of this language is significant as foundational code of conduct that needs to be asserted to guide the intent of and details for this bill. Please include these kumu kānāwai into this bill.
- Please use the spelling of Mauna a Wākea.
- Defer all renewal of leases and contracts until the new stewardship authority is established and operational.

Mahalo for your support of this bill with recommended amendments.

Mahalo,



U'ilani Naipo

***Davianna Pōmaika‘i McGregor
1942 Naio St.
Honolulu, HI 96817***

Testimony of Davianna Pōmaika‘i McGregor in favor of HB 2024 Relating to Mauna A Wakea
Saturday, February 19, 2022
9:00 – Videoconference and Conference Room 430

Aloha Chair Tarnas and Vice-chair Patrick Branco and members of the Committee on Water & Land, Chair Mark Nakashima and Vice-chair Scot Matayohsi and members of the House Committee on Judiciary & Hawaiian Affairs and Chair Sylvia Luke and members of the House Committee on Finance Committee. I am Professor Davianna Pōmaika‘i McGregor, and I am testifying in support of HB 2024 Relating to Mauna Kea, with suggested amendments. .

I support the establishment of a Mauna A Wākea stewardship authority as defined in HB2024 as the sole authority for management of state-managed lands on Mauna A Wākea. The University of Hawai‘i(UH) has not only failed to protect Mauna A Wākea, it has proceeded to inflict more damage to the summit by seeking permits and engaging in an agreement to construct a Thirty Meter Telescope at the summit, without removing any of the telescopes that are no longer being used.

The UH has failed to effectively acknowledge and consult with the Native Hawaiian community on cultural resources management and on education and outreach efforts. The Hawai‘i State Auditor’s Office released reports in 1998, 2005, 2014 and 2017 which were critical of the management of the state-owned lands of Mauna A Wākea by UH. HR33, HD1, aimed to address these longstanding issues by establishing a Mauna Kea Working Group (Working Group) to provide recommendations to develop a new governance and management structure for Mauna a Wākea, as provided in HB 2024.

In addition, I suggest the following amendments to HB 2024:

1. Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report - Ho‘okikī Kānāwai, Kua‘ā Kānāwai, Kai‘okia Kānāwai, Kiho‘iho‘i Kānāwai;
2. Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group’s Report; and
3. Add language that would require the University of Hawai‘i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group:

He lā hou kēia ma Mauna a Wākea.
A new day has indeed arrived on Mauna a Wākea.

Me ke aloha no Mauna a Wākea.

Aloha members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance,

My name is Dr. Rosie 'Anolani Alegado and professor at the University of Hawai'i Mānoa testifying as a private citizen in **SUPPORT** of **HB2024**. The proper stewardship of Mauna a Wākea has long been debated with numerous Native Hawaiian, environmental and community groups raising concerns over the decades.

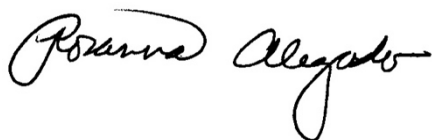
HB2024 is positive legislation because it acknowledges and attempts to remedy problems in management of a sacred resource that has been under the purview of the University of Hawai'i. In 2019, I wrote an opinion piece in the scientific journal Nature ([doi: 10.1038/d41586-019-02304-1](https://doi.org/10.1038/d41586-019-02304-1)) clarifying that opposition to the Thirty Meter Telescope was a reflection of community concern around mismanagement of Mauna a Wākea, not necessarily opposition to the field of astronomy. Indeed several state-funded reviews of the UH's management have validated the community's concerns. The Hawai'i State Auditor's Office released reports in 1998, 2005, 2014, and 2017 were critical of the UH stewardship of Mauna a Wākea. Most recently, the Department of Land and Natural Resources' "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan" found that the while UH's management of Mauna a Wākea had improved, it failed to timely approve administrative rules; failed to consult with the Native Hawaiian community on cultural resources issues; and failed to engage with the community, particularly the Native Hawaiian community, on education and outreach efforts.

As a supporter of a healthy and protected Mauna a Wākea, I strongly urge you to pass HB2024 with the following amendments:

- Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report - Ho'okikī Kānāwai, Kua'ā Kānāwai, Kai'okia Kānāwai, Kīho'iho'i Kānāwai;
- Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group's Report; and
- Add language that would require the UH to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

HB2024 is a commitment to take steps towards economic, cultural, and environmental justice that will make good on the State legislature's commitments to its constituents, and Hawai'i's precious natural and cultural resources.

Me ka ha'aha'a,

A handwritten signature in black ink, reading "Rosanna Alegado". The signature is fluid and cursive, with the first name "Rosanna" and last name "Alegado" clearly distinguishable.

HB-2024

Submitted on: 2/17/2022 8:10:16 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
kathleen cavanaugh	Individual	Oppose	No

Comments:

Visiting Mauna Kea is a unique aspect of hawaii island tourism. Professional guides allow more visitors to experience the mountain top with fewer vehicles and congestion. Plus, the road itself is dangerous at night and professionals minimize the risk.

HB-2024

Submitted on: 2/17/2022 9:01:16 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Makanoe Hufana	Individual	Oppose	No

Comments:

I oppose HB2024

HB-2024

Submitted on: 2/17/2022 9:05:02 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kristin Chiboucas	Individual	Oppose	No

Comments:

Aloha committee,

This is testimony AGAINST HB2024.

This bill is fundamentally flawed in a couple ways. The entire reason the Mauna Kea working group was established was because of differing opinions on the use of Mauna Kea by 2 different stakeholders. The primary issue arose because one stakeholder had complete control of the mountain and the other felt they had no say. The problem with this bill is that it establishes a new management entity that includes ONLY the other stakeholder while excluding the original. But since sole management by one was determined to be problematic and the whole reason for establishing the working group in the first place, the outcome of the working group is incomprehensible. If management changes are to be made, it should be to provide shared management by BOTH stakeholders.

Additionally, the proposal states that "the governing entity shall develop a framework to limit astronomy development on Mauna a Wākea, including a plan to return the mauna above 9,200 feet elevation to its natural state." While a minority of people in this state are against having the telescopes on Mauna Kea, the majority are for it. Mauna Kea is indeed a special place. Mauna Kea, with its clear, dark, non-turbulent, dry skies, is renowned as the best location on earth for hosting the best telescopes on earth. Right here in Hawaii. Astronomy is a clean, pure science devoted to better understanding the universe in which we live and which we are part of, and there really should be no conflict between revering the mountain for its historical and cultural significance and for revering it as the center of learning and understanding.

Respectfully,

Kristin Chiboucas

Hilo, HI

HB-2024

Submitted on: 2/17/2022 10:04:04 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Deidre Sumic	Individual	Oppose	No

Comments:

I DO NOT support HB2024. This bill has 3 persons that would be in authority affiliated with Edith Kanakaole foundation and/or University of Hawaii as well as OHA. Representation from a non affiliated environmental management agency or Hawaiian group with no ties to UH, Edith Kanakaole Foundation or OHA should be included. Until a more local public representation is shown, I feel this bill should not be passed. . Also, can an expert in environmental management from the National Park be a representative? Or someone without ties to those large agencies that is already represented?

My main concern is looking out for the beauty & sacredness of Mauna Kea, but am hopeful that the authority will not take away the public access to it.

Mahalo for allowing my input.

Deidre Sumic - born and raised on the Big Island

HB-2024

Submitted on: 2/17/2022 10:05:42 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Hunter Binkley	Individual	Oppose	No

Comments:

Aloha!

My name is Hunter Binkley, I am a tour operator for Super Vacation Hawaii, a commercial operator on Mauna Kea, but today, I'm coming to you as an individual citizen of the state of Hawaii, and my statement does not necessarily represent the organization I work for, but my own testimony.

Mauna Kea is a sacred place, where advanced science and technologies meet with ancient history and hallowed ground. HB2024 would not only take away my job and ability to provide for my family, but would limit access to the mountain even farther than the limited options that are available currently. Rental car companies do not allow their 4x4 vehicles to be taken up to Mauna Kea(and often disable the 4x4 capabilities of their vehicles without the renter being aware of that fact - which is an extremely dangerous practice and should be addressed) so many tourists turn to the commercial operators. Whom provide safe, economically friendly tours in an extremely critical habitat. Currently, each commercial operator pays 6\$ per person to the OMKM each day. Which generates roughly \$27,000 per month. Not to mention the cost of the commercial permits themselves.

Charging private citizens of Hawaii is another matter altogether. Mauna Kea belongs to the people of Hawaii and charging them for access to the mountain is incredibly short-sighted. The stewardship on the mountain should want to have a good relationship with the people of Hawaii but this is the first step toward alienating the mountain from it's people. Access to the mountain should always be free for those that have a safe, 4x4 accessible vehicle.

Vote NO on HB2024

Mahalo for your time

Hunter Binkley

HB-2024

Submitted on: 2/17/2022 10:34:49 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Andrei Burghelea	Individual	Oppose	No

Comments:

Aloha Chairs Tarnas, Nakashima, Luke, Vice Chairs Branco, Matayoshi, Yamashita, and members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

I am writing today to testify AGAINST HB2024.

I commend the Mauna Kea Working Group and Speaker Saiki for continuing dialogue on the important issue of managing Mauna Kea. The group was given an impossible task - finding an alternative governing model for Mauna Kea that satisfies the TMT protesters and the rest of the State of Hawaii. The reality is that UH's management of Mauna Kea has been excellent and the major management failure of late has been the State's failure to enforce the law and arrest protesters unlawfully blockading the Mauna Kea Access Road to prevent the construction of the amazing Thirty Meter Telescope project. The creation of any new governing entity will merely serve to delay TMT and the renewal of the lease that governs the telescopes which expires in 2033. This is, of course, the protesters' objective, but it should not be the State of Hawaii's. I believe this new governance model proposal should be abandoned in favor of continuing UH's management under UH's new proposed plan and structure. Please do not pass this bill out of your committees.

To the extent this effort continues on, I have the following comments on HB2024:

1. The legislation currently proposes excluding the astronomy industry from having a seat on the board of the new proposed Mauna Kea management entity. The telescopes on Mauna Kea and the University of Hawaii maintain the access road and provide billions of dollars in investment and jobs to our economy. At a minimum the astronomy industry deserves a seat on the board tasked with management of Mauna Kea, either through the Mauna Kea Observatories group or the University of Hawaii, if not both.
2. Section 6 currently states that the authority shall establish a plan for eliminating astronomy on Mauna Kea. Astronomy on Mauna Kea provides unique educational opportunities, valuable high skill internships, and quality employment opportunities for the next generation of Hawaii. Eliminating astronomy would be a harsh setback for our children and is not be acceptable.
3. The legislation should include amendments to criminal statutes to allow for harsher punishments and quicker enforcement for blocking of public roadways. We do not want to end up like Canada.

3. The legislation includes a requirement that Mauna Kea above the 6500 foot elevation line be managed under HRS 205A, which governs "Coastal Lands". There is no explanation for why the summit of Mauna Kea, which by definition in this legislation is 6500 feet higher than the coastline, would be governed as "coastal land". The most probable reason is that the protesters know this is a much more restrictive zoning classification that could be used to completely exclude astronomy from the summit. This is obviously unacceptable. No zoning changes should be made that would endanger the astronomy scientific research on Mauna Kea.

Mahalo nui loa,

Andrei Burghelea

House District 1

HB-2024

Submitted on: 2/17/2022 10:45:29 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Barbara Dalton	Individual	Oppose	No

Comments:

OPPOSE HB2024

It's hard to get through this bill in its entirety because it's based on false premises and riddled with lawsuit-inviting illegalities. By whose definition has "Mauna Kea. . . come to symbolize a rigid dichotomy between culture and science, often leading to polarization between stakeholders on Mauna Kea and local communities?" Not the majority of Hawai'i Island residents, but, rather, off-island folks who fly over to Kona on weekends to protest for TV cameras, and movie stars and influencers who monetize their activism by using the mountain for click-bait.

Race-based decision-making on just about anything has been repeatedly thrown out in federal court—including cases here in Hawai'i. Yet this bill attempts to establish race-based authority to control public land. The Mauna Kea stewardship authority created by HB2024 sets dangerous precedent for seizure of public lands, for it "shall hold title to. . .state-managed lands above the six thousand five hundred foot elevation line. . .to the summit of Mauna Kea. . .[and] shall establish access, stewardship, and management policies for Mauna Kea lands, including but not limited to policies pertaining to the protection of natural and cultural resources, all recreational activities, and all commercial uses."

The list of nine voting members of the "authority" excludes the most significant stakeholder: the astronomy community. Good management is already in place, with University of Hawaii and the Center for Mauna Kea Stewardship successfully managing more than 11,000 acres, including the 5,000-acre Mauna Kea Science Reserve. Its stewardship has garnered the State Historic Preservation Award, numerous awards for protection of cultural and natural resources, and accolades from the Department of Land & Natural Resources.

What a perfect irony that the co-author of this dreadful bill just stepped down, and, in the Speaker of the House's recent words, "tainted any legislation [he] may have worked on, as well as the entire Legislature." This bill gives the Mauna Kea stewardship authority the ability to "contract for and accept gifts or grants in any form from any public agency or from any other source," as well as "do any and all things necessary to carry out its purposes and exercise the powers granted in this chapter." Auwe! HB2024 must not go any further.

Thank you for your consideration.

Barbara Dalton

HB-2024

Submitted on: 2/17/2022 10:51:41 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
David Dow	Individual	Oppose	No

Comments:

Aloha Chairs Tarnas, Nakashima, Luke, Vice Chairs Branco, Matayoshi, Yamashita, and members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

I am writing today to testify AGAINST HB2024.

I commend the Mauna Kea Working Group and Speaker Saiki for continuing dialogue on the important issue of managing Mauna Kea. The group was given an impossible task - finding an alternative governing model for Mauna Kea that satisfies the TMT protesters and the rest of the State of Hawaii. The reality is that UH's management of Mauna Kea has been excellent and the major management failure of late has been the State's failure to enforce the law and arrest protesters unlawfully blockading the Mauna Kea Access Road to prevent the construction of the Thirty Meter Telescope. The creation of any new governing entity will merely serve to delay TMT and the renewal of the lease that governs the telescopes which expires in 2033. This is, of course, the protesters' objective, but it should not be the State of Hawaii's. I believe this new governance model proposal should be abandoned in favor of continuing UH's management under UH's new proposed plan and structure. Please do not pass this bill out of your committees.

To the extent this effort continues on, I have the following comments on HB2024:

1. The legislation currently proposes excluding the astronomy industry from having a seat on the board of the new proposed Mauna Kea management entity. The telescopes on Mauna Kea and the University of Hawaii maintain the access road and provide billions of dollars in investment and jobs to our economy. At a minimum the astronomy industry deserves a seat on the board tasked with management of Mauna Kea, either through the Mauna Kea Observatories group or the University of Hawaii, if not both.

2. Section 6 currently states that the authority shall establish a plan for eliminating astronomy on Mauna Kea. Astronomy on Mauna Kea provides unique educational opportunities, valuable high skill internships, and quality employment opportunities for the next generation of Hawaii. Eliminating astronomy would be a harsh setback for our children and is not be acceptable.

3. The legislation should include amendments to criminal statutes to allow for harsher punishments and quicker enforcement for blocking of public roadways. We do not want to end up like Canada.

4. The legislation includes a requirement that Mauna Kea above the 6500 foot elevation line be managed under HRS 205A, which governs "Coastal Lands". There is no explanation for why the summit of Mauna Kea, which by definition in this legislation is 6500 feet higher than the coastline, would be governed as "coastal land". The most probable reason is that the protesters know this is a much more restrictive zoning classification that could be used to completely exclude astronomy from the summit. This is obviously unacceptable. No zoning changes should be made that would endanger the astronomy industry on Mauna Kea.

5. All implication that Mauna Kea is "sacred" to all Native Hawaiians should be removed. Mauna Kea is not sacred as a Native Hawaiian matter. While some people might maintain beliefs in the kapu religion, and as part of their belief think Mauna Kea is sacred, their beliefs are not authoritative as a Native Hawaiian matter. Our ali'i abolished the kapu religion over 200 years ago and our constitution prohibits the government from establishing a religion. Thus, any mentions of sacredness must explain this nuance and explain that there are also Native Hawaiians who do not think Mauna Kea is sacred, or who think its sacredness is enhanced by the use of Mauna Kea for astronomy.

Mahalo nui loa,

David Dow

House District 3

HB-2024

Submitted on: 2/17/2022 10:54:56 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lee S. Motteler	Individual	Oppose	No

Comments:

Following is my testimony submitted in response to the MKWG draft report. I repeat it here in opposition to this bill.

Mauna Kea belongs to all of us. In one sense, we are all Hawaiians. If you live in California, you say that you are a Californian. If you live in Oregon, you are an Oregonian, and so on. The people who live in those mainland states, for the most part, did not originate there. Likewise, I submit, I am a Hawaiian, not by blood but by choice. This is my home, where I raised my family, where my eldest son was born. I have a claim on this land that is no less legitimate than those whose Polynesian ancestors came from islands to the south. It follows logically that we all have a claim to Mauna Kea: it is not the exclusive kuleana of a small group of Native Hawaiians to determine everything that happens on the mountain.

Mauna Kea should be an open, multi-use resource. Good management, of course, means that the summit must be used responsibly and respectfully. Hawaiian cultural and religious practitioners must be allowed, and as far as I am aware no one has prohibited or suggested prohibiting such activities on the mountain. But there is no reason that these activities should prevent ongoing use of this premier location for the observation and study of the cosmos. Astronomy and advancing our knowledge of the universe benefits us all beyond measure. Hawaii Island and the state are extremely fortunate to have this world-class resource, and it must not be a victim of the culture war.

Mauna Kea can be an example for coming together rather than dissent. In a representative government such as ours, democracy dictates that the concerns of all people be considered. If we are to be ruled by those with the loudest voices who argue that theirs is the only way, we are no longer a government of the people. In the case of Mauna Kea, much has been argued about the supremacy of the Hawaiian worldview opposed to the "continental view and values," as is rather revealingly noted in your report. This kind of divisiveness is unfortunate, as it separates us into competing camps and does not encourage agreement or compromise. Isn't it finally time to set aside our differences and accept that we cannot continue to look backward to a mythical past? Isn't it time to look forward?

Aloha and mahalo,

Lee S. Motteler

Pahoa

HB-2024

Submitted on: 2/17/2022 11:36:08 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Daniel Devost	Individual	Support	No

Comments:

Dear members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

I write this letter in support of HB 2024. I consider this bill to be a first step in the inclusion of Native Hawaiians into the political process regarding Maunakea.

I support this bill because I believe that things have to change regarding the management of the mountain. I am of the opinion that in the name of fairness, Maunakea must be managed by an entity free of involvement in astronomy.

Being an astronomer myself, I can appreciate the value of the mountain for science. It is one of the best sites in the world and the science being done here in Hawaii is a unique asset for the state. The scientific, economic and educational impacts of doing astronomy on the mountain are not negligible and have to be sustained.

However, Native Hawaiians are treated as a minority and do not have a real voice in the process. The January 20th 2022 meeting of the Board of Regents regarding the new Master Lease is a good example on how things have been conducted regarding Maunakea for a while now. The new Master Lease was accepted despite 20-30% opposition by Native Hawaiians. Their opinion was discarded as being irrelevant to the master lease process. This state of affairs has been in place since I was made aware of Native Hawaiian opposition to new projects on Maunakea about 5-10 years ago. It needs to change.

I believe that HB 2024 has the potential to bring Native Hawaiian opinions to the table, radical and moderate. Nobody knows what the consequences for current and future astronomical science on Maunakea will be if HB2024 becomes law. What we do know is that if the status quo remains, people opposing TMT will still have to resort to extreme measures to be heard.

Native Hawaiians blocking the summit road because they don't feel included in the political process is detrimental to the continuation of astronomy on the summit of Maunakea. I fail to see how keeping the status quo can help.

All the best,

Daniel Devost

HB-2024

Submitted on: 2/17/2022 11:41:38 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kenneth Ordenstein	Individual	Support	No

Comments:

It's time Kanaka regain stewardship of the Mauna a Wākea as a crucial way to take the necessary steps toward economic, cultural, social and environmental justice for the root culture of Hawaii. I strongly urge you to pass HB2024 with the following amendments:

1. Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report - Ho'okikī Kānāwai, Kua'ā Kānāwai, Kai'okia Kānāwai, Kīho'ihō'i Kānāwai;
2. Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group's Report; and
3. Add language that would require the University of Hawai'i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

I thank the leaders of the House of Representatives for their commitment to take steps towards economic, cultural, and environmental justice. Therefore I ask your support of HB2021 with amendments.

HB-2024

Submitted on: 2/17/2022 11:56:32 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Stephen T Hazam	Individual	Oppose	No

Comments:

Please OPPOSE HB2024

This bill would create a management organization which is not balanced because it does not require anyone on the board representing the astronomy industry. It also requires a plan to eliminate all astronomy from the summit. This is a lose-lose proposition for all Hawaiians, including Native Hawaiians, who have a history of great voyagers. This bill only serves the interests of a narrow group of Hawaiians who reject the broader view of most Hawaiians as well as the Law.

Please OPPOSE HB2024

HB-2024

Submitted on: 2/17/2022 12:09:57 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
EMIKO OKAWA	Individual	Oppose	No

Comments:

I'm writing today to testify against HB2024
Note Section 11 (a)

Historical tour companies should not be excluded.

My name is Emiko Okawa, Vice President of Taikobo Hawaii, one of Mauna Kea's official tour operators.

As a Mauna Kea tour operator, TAIKOBO HAWAII has been running Mauna Kea tours before UH. It's been 28 years.

Commercial tour operators have always followed UH rules and have co-existed for a long time. The tour company did not destroy Mauna Kea.

During that time, I learned a lot from Mauna Kea.

Every time I ordered a van, I came up with a lot of ideas for making a car suitable for the harsh environment. This is the most expensive investment.

It has delivered a light of hope to many tourists visiting Mauna Kea.

Commercial Tours can reduce the number of individual rental cars. We will also share what we have learned about Hawaiian culture with our tour guests. It is also highly safe.

The unique nature of Mauna Kea must be preserved for generations of children.

HB-2024

Submitted on: 2/17/2022 12:22:30 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
KATHERINE ROSEGUO	Individual	Oppose	No

Comments:

I OPPOSE HB 2024 for the following reasons. As a Hawai'i island taxpayer and educator, I mostly have questions. Why so much hate for astronomy, which has given us so much, such as GPS, adaptive optics, medical imaging, and hundreds of other applications? Why are our kids and our taxpayers ignorant of these? Why hate for the people whose entire lives have been spent on keeping Maunakea safe and accessible for all of us, such as the Rangers, the road maintenance crew, the workers at the VIS and at Hale Pōhaku, the techs, the engineers, the mechanics, the environmentalists planting our native species? Why does the legislature and the media continue to ignore the native Hawaiians who support TMT? Why was the MKWG made up of so many people vehemently opposed to TMT and all astronomy, yet who claim they're NOT anti-science? OHA tried to take over, and now it's this group.

Protestors talk about "trust", but why is OHA so secretive about how it uses its taxpayer funds? Why is Ty Cullen's name on this bill? Apparently not a name to trust! Why do the proponents of this bill support a movement borne out of lies and misinformation, such as the size of TMT, where it will be located, where it can be seen from, its negligible environmental impact and affect upon the aquifer? Crying about "protect our water" when it's virtually impossible for the telescopes to have ANY effect upon the aquifer? Claiming "sacred" means "no telescopes" rather than seeking knowledge as a sacred act? Again, why are supporters' voices silenced?

In light of the recent discoveries Maunakea astronomy has made in the past few years, perhaps it is not the university's failure in management, but rather its SUCCESS that make it so popular for protestors. Maunakea, virtually ignored for years, except after a snowstorm, now comes into its true value: A seeker of light and knowledge. A way for our local kids to dream about being able to stay in the land they grew up in. A way to share science and culture. And opposing this is the mountain you want to die on? Seriously? I refuse to believe that this is what most taxpayers want. I refuse to believe that this is what most native Hawaiians want. I know too many brilliant native Hawaiians as well as other Hawai'i residents that support astronomy on Maunakea and the university's management of it.

A warning to the lawmakers who support this bill: Mark my words, this is an election year and supporters of astronomy on Maunakea are a force to be reckoned with. We have been silenced and ignored for too long by legislators and the media. We are tired of our public

roads being blocked, unnecessary “protest” traffic slowdowns (ummm... Canada?), illegal encampments made on our conservation lands, aided and abetted by our elected officials, who lay down gravel for them. Tired of being bullied for believing in education and the potential for Hawai‘i to lead the world in so many ways, not just astronomy. Lawmakers, we are listening and watching how you vote. We want to know who is not afraid to stand up for Hawai‘i’s keiki and our collective future. Make the pono choices for Hawai‘i. We are watching.

HB-2024

Submitted on: 2/17/2022 12:24:13 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Stewart Hunter	Individual	Oppose	No

Comments:

I strongly oppose this legislation. In recent years, UH has received environmental stewardship awards for managing lands on MK. They should continue this work.

HB-2024

Submitted on: 2/17/2022 12:38:31 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Andras Toth	Individual	Oppose	No

Comments:

Aloha

For the past 3 years I had a good fortune of working as a Mauna Kea Summit tour guide for Arnotts' Lodge and hiking adventures in Hilo.

I would kindly ask the legislators to NOT to consider restricting licensed tour operators activities on the Mountain above 9200 feet elevation because it would have a huge economic impact on our industry, businesses, my fellow tour guides. We are depended on our jobs to support our famillies.

As tour operators we play a positive role by conducting safely guided tours, helping to reduce traffic and incidents as well as educating our guests about Hawaii's native culture.

Maholo

Andras Toth

Aloha members of the House Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

I am writing this testimony in **SUPPORT** of HB2024.

For too many years the University of Hawai‘i (UH) has failed to fulfill its responsibility as stewards of Mauna a Wākea, as evidenced by the Hawai‘i State Auditor's Office reports (1998, 2005, 2014, 2017) and the Department of Land and Natural Resources’ “Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan” which found that the UH failed to timely approve administrative rules, to consult with the Native Hawaiian community on cultural resources issues, and to engage with the community on education and outreach efforts.

As a supporter of a healthy and protected Mauna a Wākea, I strongly urge you to pass HB2024 with the following amendments:

- Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report Ho‘okikī Kānāwai, Kua‘ā Kānāwai, Kai‘okia Kānāwai, Kīho‘iho‘i Kānāwai;
- Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group’s Report; and
- Add language that would require the University of Hawai‘i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

Remember your kuleana to your constituents and this beloved ‘āina. I call on you to act with integrity by fulfilling your commitment to economic, cultural, and environmental justice.

He lā hou kēia ma Mauna a Wākea. A new day has indeed arrived on Mauna a Wākea.

Me ke aloha no Mauna a Wākea,
Dorinna Cortez

HB-2024

Submitted on: 2/17/2022 1:46:19 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lauren Manuel	Individual	Oppose	No

Comments:

In Hawaii, we rely on tourism to sustain our economy. By responsible tourism, (ie: guided tours with maximum capacities) we can manage things responsibly. The tour groups leave the area they visit better than they found it and it's much better than allowing 10 individual cars driving up to Mauna Kea and leaves a better footprint. If astronomers are allowed up to Mauna Kea, we should allow responsible commercial activity as well.

Subj: Testimony AGAINST HB2024 - Hearing on 2/19/2022 9am

Aloha Chairs Tarnas, Nakashima, Luke, Vice Chairs Branco, Matayoshi, Yamashita, and members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

I am writing today to testify AGAINST HB2024.

University of Hawaii management of Mauna Kea has been excellent and any major management failure of late is due to the State's failure to enforce the law and arrest protesters unlawfully blockading the Mauna Kea Access Road to prevent the construction of the Thirty Meter Telescope project. The creation of any new governing entity will merely serve to delay TMT further as well as the renewal of the lease that governs the telescopes which expires in 2033. This is, of course, the protesters' objective, but it should not be the State of Hawaii's. I believe this new governance model proposal should be abandoned in favor of continuing UH's management under UH's new proposed plan and structure. Please do not pass this bill out of your committees.

To the extent this effort continues on, I have the following comments on HB2024:

1. The legislation currently proposes excluding the astronomy industry from having a seat on the board of the new proposed Mauna Kea management entity. The telescopes on Mauna Kea and the University of Hawaii maintain the access road and provide billions of dollars in investment and jobs to our economy. At a minimum the astronomy industry deserves a seat on the board tasked with management of Mauna Kea, either through the Mauna Kea Observatories group or the University of Hawaii, if not both.

2. Section 6 currently states that the authority shall establish a plan for eliminating astronomy on Mauna Kea. Astronomy on Mauna Kea provides unique educational opportunities, valuable high skill internships, and quality employment opportunities for the next generation of Hawaii. Eliminating astronomy would be a harsh setback for our children and is not be acceptable.

3. The legislation should include amendments to criminal statutes to allow for harsher punishments and quicker enforcement for blocking of public roadways. We do not want to end up like Canada.

3. The legislation includes a requirement that Mauna Kea above the 6500 foot elevation line be managed under HRS 205A, which governs "Coastal Lands". There is no explanation for why the summit of Mauna Kea, which by definition in this legislation is 6500 feet higher than the coastline, would be governed as "coastal land". The most probable reason is that the protesters know this is a much more restrictive zoning classification that could be used to completely exclude astronomy from the summit. This is obviously unacceptable. No zoning changes should be made that would endanger the astronomy industry on Mauna Kea.

4. All implication that Mauna Kea is "sacred" to all Native Hawaiians should be removed. Mauna Kea is not and never has been sacred as a Native Hawaiian matter, as you can read about here: <https://tinyurl.com/Hawaiians4TMT>. While some people might maintain beliefs in the kapu religion, and as part of their belief think Mauna Kea is sacred, their beliefs

are not authoritative as a Native Hawaiian matter. Our aliʻi abolished the kapu religion over 200 years ago and our constitution prohibits the government from establishing a religion. Thus, any mentions of sacredness must explain this nuance and explain that there are also Native Hawaiians who do not think Mauna Kea is sacred, or who think its sacredness is enhanced by the use of Mauna Kea for astronomy.

Mahalo nui loa,

Patricia Cooper, Ph.D.

Dean of Graduate Education, Retired

The written testimony of Dr. Pualani Kanaka'ole Kanahele in **support** of **HB2024**
February 16, 2022

Environmental Kinship and the importance of Mauna a Wākea, Maunakea

Native Hawai'i cosmovision, corpus of knowledge, and praxis emerge from a worldview that includes natural phenomena as a part of the socio-ecological world of relationships in which all are intimately connected, from an island point of view; this is an everyday reality.

Our idea of life cycle is based on a literal "cycle" of living, birth, reproduction, and dying. The term 'ohana applies to this relationship. This, above all, is the single most important element relating to the native Hawai'i concept of environmental kinship. The lack of a word that means environment, nature, or natural in the native 'ōlelo hawai'i is a testament to this because we are not separate from our environmental relatives. However, environmental kinship is the element of Hawai'i's culture that is least understood by those who function outside of this reality.

The kanaka developed four kumu kānāwai (laws of nature) as a way of adapting to the "cycle" of the 'ohana and the continuous growth of the environmental kinship. The four kānāwai expands for specificity and speaks for all areas of land, ocean, and levels of existence from the rare to the common.

Kumu Kānāwai, laws of nature and the continuity of "life cycles" with brief explanations of each.

Ho'okikī Kānāwai - the edict of continuum. Flow of magma moves, water basins flow, clouds move, air and ocean currents are active, islands continue to be shaped, formed, and conditioned naturally.

He Kua'ā Kānāwai - the edict of gestating landscapes. Craters erupt, marshes are active, coral heads are in season, wet forest produces.

He Kai'okia Kānāwai – the edict of natural boundaries. Path of the sun, moon, stars from north, south, east, west; vertical and horizontal divisions of land, ocean, and space above.

He Kīho'ihō'i Kānāwai - the edict of regeneration. Immediate restoration of landscape after a flood, lava flow, windstorm, fire. The theory is that nature will fix itself.

The entities of nature, according to Hawaiian theology, who are responsible for "life cycles" are known as "akua." "Akua" are phenomena of nature which include the sun, atmosphere, the ocean, land, clouds, and Mauna a Wākea. Mauna a Wākea is an akua; therefore, the idea of "sacred" however not so sacred as holy but has both beneficial and non-beneficial factors for most living organisms. All akua are necessary for life, but too much exposure is dangerous.

Maunakea Writing Group was introduced to the Kumu Kānāwai and used it as the foundation for the write-up and expanded from there to other areas of living. The fact that the writers for the

HB2024 left out this foundational acquisition is regretful. It is a necessary part of HB2024, and we would like to see it reinstated as part and parcel of HB2024.

There are mele oli or chant which talks about the importance of Mauna a Wākea as an “Ume Wai” or collector of water. Topographical maps provided by DLNR prove the theory of ume wai and display a large amount of water collected and dispersed from the mauna throughout the island. Mauna a Wākea is the south eastern most island; therefore, it initially envelops the clouds moving in from the east to collect water or deter its movement when necessary.

Mauna a Wākea was honored with this nomenclature because of its height and spatial bearing as beneficial properties for the longevity of life cycles. Mauna a Wākea is a kupuna, it is an elder, it is a provider for life, it is ‘ohana.

Building on the mauna and eroding the island from the top down is discourteous, disrespectful, and insulting to the entity, the theology of the mauna as akua, as well as the kanaka of this land.

I support HB2024 to be actively voted into place as recommended by the Maunakea Working Group along with the formation of the Mauna a Wākea Land Management Committee.

A handwritten signature in black ink, appearing to read "Pualani Kanaka'ole Kanahele". The signature is fluid and cursive, with a long horizontal line extending to the right.

Pualani Kanaka'ole Kanahele, He Hawai'i Au

HB-2024

Submitted on: 2/17/2022 2:17:58 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
GARRY F Dean	Individual	Oppose	No

Comments:

To Whom it May Concern.

I firmly oppose HB 2024. I am an employee of Hawaii Forest and Trail and have been conducting tours to the summit of Mauna Kea with HFT since 2000. I would like to inform all agencies so they will know the positive role Hawaii Forest and Trail plays on the mountain. We provide safely guided tours under very tightly controlled conditions, all while helping to reduce traffic and incidents on the mountain. Educating visitors about Hawaii's native culture and fragile ecosystems, and how to visit Mauna Kea in a respectful and peaceful way -- this is what Hawaii Forest and Trail strives to do as company.

Also, taking people safely to the summit of Mauna Kea is sometimes my job, therefore impacting my employment, my livelihood. Having commercial operators restricted from being able to go to Mauna Kea summit directly impacts myself and my family's livelihood. As an employee of Hawaii Forest & Trail, I depend on my job to support my family while trying to survive in this challenging and increasingly costly state to live in. Mahalo for your consideration.

Sincerely,

Garry Dean

68-1769 Akaula st.

Waikoloa Hi

96738

HB-2024

Submitted on: 2/17/2022 2:42:47 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
YOSHIE OKITSU	Individual	Oppose	No

Comments:

Mauna Kea permitted tour companies help to educate tourists for culture and history of The Mauna Kea. Also they are knowledgeable and respecting the nature of Mauna Kea, and always safety first. I think that more tourists uses rent a car to visit Mauna Kea if close the tour companies. We need educators!!!

HB-2024

Submitted on: 2/17/2022 2:50:22 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jason Cohn	Individual	Oppose	Yes

Comments:

Testimony in Opposition to HB 2024 Maunakea Authority

Mr. Jason Cohn

P.O. Box

Holualoa, HI 96725

Dear Representatives:

Please accept this testimony in opposition to HB 2024 establishing the Maunakea Stewardship Authority. My name is Jason Cohn and I am the President of Hawaii Forest & Trail. I was born in Kona and graduated from Kealahou High School. I am lucky to be the second generation of leadership in my family's business, and one of the things I am most proud of is that every one of our employees is able to make a living wage while being provided the opportunity to give back to the land and our community through the work we do and the organizations we support.

As a tour operator on Maunakea we understand that our presence on the Mountain is a privilege, and it's important for us to use that privilege to provide as many positive outcomes for our community and the mountain as possible. Because of the 6 month closure to the Maunakea Summit Access road in 2019, we have very good data on how the marketplace would react to a loss of commercial activity above the Maunakea Visitor's Center and how this would affect our company. Should commercial operations cease on Maunakea the following actions would take place: we would have to cut 8-10 jobs, Reduce the salaries of an additional 5-7 Administrative positions, There would be a \$100,000 annual loss in the catering business for our catering vendor (a family business), A \$40,000 annual loss in business for our mechanic (a Native Hawaiian owned family business). Considering the negative impacts of COVID, the 2018 Kilauea eruptions, and other factors that have made the past 4 years very difficult. We would consider

shutting down our business altogether. Now multiply this impact across the other 7 operators on the Mountain.

One of the great frustrations I continually hear from my childhood friends, family members, and others is that they feel they have little or no economic opportunity here. There are now as many Native Hawaiians living outside the state of Hawaii as there are inside the state of Hawaii. According to HUD Hawaii has the highest per capita homelessness rate in the Nation- A plight that has disproportionately affected Native Hawaiians.

You all know these statistics. Hawaii has reached an inflection point where Hawaiians can't afford to live in Hawaii anymore. And yet, here we are proposing a bill that would close more businesses and eliminate more good-paying jobs from the island?

HAWAII IS NOT HAWAII WITHOUT HAWAIIANS. Rather than spending tens of millions of dollars on creating new agencies and closing public spaces, let's focus our time, money, and energy on making this state livable for our Kanaka and Kamaaina while we still can.

Mahalo for your time.

HB-2024

Submitted on: 2/17/2022 2:53:28 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Cary Dizon	Individual	Oppose	No

Comments:

I believe the proposed management plan outlined in HB2024 is deeply flawed and has the explicit intent of ending astronomy on Mauna Kea. I believe that the observatories atop Mauna Kea are a part of the economic future of Hawaii Island which desperately needs to diversify not limit its economic options. Better the summit be administered by the UH than under this proposal.

February 17, 2022

Hawai'i State Legislature
31st Legislature, 2022
State of Hawai'i

Subject: Bill HB2024 (Mauna Kea Stewardship Authority)

Aloha,

As a professional astronomer, faculty member at UH Hilo, and resident of the county of Hawai'i for more than two decades, I would like to offer the following comments regarding Bill HB2024 on the Mauna Kea Stewardship Authority, based on the report of the Maunakea Working Group:

- I support Native Hawaiian involvement in the future stewardship governance of Maunakea.
- Bill HB2024 is anchored in the report of the Maunakea Working Group. This report has been severely criticized, as expressed by hundreds of comments submitted by the public. That report severely understates the importance and contributions of astronomy conducted from Maunakea for the entire world and for the prestige of the State of Hawai'i. Astronomy has also a large economy impact (more than \$200M according to the recent UHERO report) and offers essential educational opportunities for the residents of Hawai'i. None of that is included in that report, making it very incomplete and shallow. Hence, the bill introduced to the Legislature is also misleading and based of a false narrative.
- The new governance entity as proposed must be held to the same standards that the University has been held to in the past decades. I do not find improvements upon the already existing management structure as the proposed responsibilities are vague, the timelines are not realistic and many of the suggested procedures are already in place. The legal implications of the new governance are also not discussed. On the contrary, I believe the new UH Master Plan proposes a more realistic and sound governance, and that public consultation has been thorough through its development process.
- The report alludes to "restoring Maunakea to its natural state". What "natural state" means is unclear but is likely to be detrimental in continuing world-class scientific activities, cultural practices and/or recreational visits that are currently enabled by the road and the access to the summit.
- I strongly believe that if such a governance entity is adopted, that at least one astronomy representative must be part of its board, especially if astronomy provides some funding. Any changes affecting the astronomy footprint at the summit has many impacts so a representative could provide important guidelines in the decision-making process.
- With its lack of details and risk analysis, Bill HB2024 creates a problematic climate of uncertainty related to the near-future scientific and educational activities linked to Maunakea. In particular:

- The current ensemble of Maunakea Observatories is the most productive research-wise in the world. Observatories also have a strong educational impact, not acknowledged in the report and the Bill. On the contrary, the goal seems to make the future of all existing astronomical facilities on Maunakea very uncertain. Respective agencies in the process of evaluating further investments in their existing facilities (including NASA and the NSF and their important contributions in astronomy and educational opportunities) might be very concerned if such a new governance is put into place, especially since no astronomy representative is proposed to be on the board. The loss of world-class astronomical facilities on Maunakea would be a deep loss for the entire State of Hawai‘i, for all of astronomy in the USA, and worldwide. There have been so many discoveries using the facilities on Maunakea that it is difficult to imagine the state of astronomy today if telescopes had not been built on that superb site.
- Research activities on Maunakea provide numerous STEM educational opportunities, for hundreds of students across the State of Hawai‘i. At UH Hilo alone for instance, opportunities for students arise in fields like evolutive biology, ornithology, volcanology, astronomy, engineering, geology, robotic space exploration, botany, hydrology, environmental science, ecology, climate change, etc. As mentioned above, the uncertainty surrounding the future access to Maunakea and the potential loss of the observatories as described by the report could have a very negative impact on all of these activities, more so if local or federal research funding related to such STEM are affected or reassessed due to an unsound management structure.

In summary, although I strongly believe that the Native Hawaiians involvement in the governance of Maunakea must be improved, I consider that the current Bill does not provide an adequate solution. It is based on a false narrative – that the University of Hawai‘i has severely “mismanaged” the mountain – and it offers a poor alternative which could have very negative consequences for the prestige and future of the State as a whole. I believe what is proposed is even more divisive in addressing the complex problems related Maunakea and that it the Bill should not be moved for further consideration by the Legislature.

Sincerely,



Dr. R. Pierre Martin
Associate Professor & UH Hilo Educational Telescope Director
Chair, Department of Physics and Astronomy
University of Hawaii at Hilo
Hilo, Hawaii

HB-2024

Submitted on: 2/17/2022 3:05:22 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kelly Lafrance	Individual	Oppose	No

Comments:

Dear Representatives,

I am sending Aloha and Mahalos for taking the time to read my testimony. As a resident of Hawaii Island that works in the hospitality industry, I arrange corporate group travel programs to the islands with many activities and events. Through personal experience I have learned first hand what draws people to this island: the mana and majesty of Maunakea.

We need to be pono and do our best to find balance, making things right for both sides of this issue. We need to malama aina and take care of the land, but we also need to continue to look toward the future. Both Astronomy and Tourism are important to the livelihood of every single person on this island, and in the entire State of Hawaii. Yes, perhaps we need to have stricter restrictions (including permits and fees) for individual access to the summit if the individual is not part of an organized commercial tour or connected to one of the telescopes. But continued access to Maunakea for commercial tours and astronomy is critical.

As residents of these islands, it is our kuleana to create a world that benefits all people in Hawaii, and ultimately the entire planet. Remember, we are one ohana.

Please rework Section 11 to allow continued commercial tours and astronomy access to the Maunakea Summit.

Mahalo Nui Loa,

Kelly Lafrance

HB-2024

Submitted on: 2/17/2022 3:20:14 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Nancy Lundblad	Individual	Oppose	No

Comments:

Subj: Testimony AGAINST HB2024 - Hearing on 2/19/2022 9am

Aloha Chairs Tarnas, Nakashima, Luke, Vice Chairs Branco, Matayoshi, Yamashita, and members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

I am writing today to testify AGAINST HB2024.

I commend the Mauna Kea Working Group and Speaker Saiki for continuing dialogue on the important issue of managing Mauna Kea. The group was given an impossible task - finding an alternative governing model for Mauna Kea that satisfies the TMT protesters and the rest of the State of Hawaii. The reality is that UH's management of Mauna Kea has been excellent and the major management failure of late has been the State's failure to enforce the law and arrest protesters unlawfully blockading the Mauna Kea Access Road to prevent the construction of the amazing Thirty Meter Telescope project. The creation of any new governing entity will merely serve to delay TMT and the renewal of the lease that governs the telescopes which expires in 2033. This is, of course, the protesters' objective, but it should not be the State of Hawaii's. I believe this new governance model proposal should be abandoned in favor of continuing UH's management under UH's new proposed plan and structure. Please do not pass this bill out of your committees.

To the extent this effort continues on, I have the following comments on HB2024:

1. The legislation currently proposes excluding the astronomy industry from having a seat on the board of the new proposed Mauna Kea management entity. The telescopes on Mauna Kea and the University of Hawaii maintain the access road and provide billions of dollars in investment and jobs to our economy. At a minimum the astronomy industry deserves a seat on the board tasked with management of Mauna Kea, either through the Mauna Kea Observatories group or the University of Hawaii, if not both.
2. Section 6 currently states that the authority shall establish a plan for eliminating astronomy on Mauna Kea. Astronomy on Mauna Kea provides unique educational opportunities, valuable high skill internships, and quality employment opportunities for the next generation of Hawaii. Eliminating astronomy would be a harsh setback for our children and is not be acceptable.
3. The legislation should include amendments to criminal statutes to allow for harsher

punishments and quicker enforcement for blocking of public roadways. We do not want to end up like Canada.

3. The legislation includes a requirement that Mauna Kea above the 6500 foot elevation line be managed under HRS 205A, which governs "Coastal Lands". There is no explanation for why the summit of Mauna Kea, which by definition in this legislation is 6500 feet higher than the coastline, would be governed as "coastal land". The most probable reason is that the protesters know this is a much more restrictive zoning classification that could be used to completely exclude astronomy from the summit. This is obviously unacceptable. No zoning changes should be made that would endanger the astronomy industry on Mauna Kea.

4. All implication that Mauna Kea is "sacred" to all Native Hawaiians should be removed. Mauna Kea is not sacred as a Native Hawaiian matter, as you can read about here: <https://tinyurl.com/Hawaiians4TMT>. While some people might maintain beliefs in the kapu religion, and as part of their belief think Mauna Kea is sacred, their beliefs are not authoritative as a Native Hawaiian matter. Our ali`i abolished the kapu religion over 200 years ago and our constitution prohibits the government from establishing a religion. Thus, any mentions of sacredness must explain this nuance and explain that there are also Native Hawaiians who do not think Mauna Kea is sacred, or who think its sacredness is enhanced by the use of Mauna Kea for astronomy.

5. Why is religion part of this government action?

Mahalo nui loa,

Nancy Lundblad, MD

House District 1

Testimony in **Opposition** to HB 2024 Maunakea Authority

February 17, 2022

Mr. Jonathan Wilt
73-1210 Kaalele Street
Kailua-Kona, HI 96740

Dear Representatives:

Please accept this testimony in opposition concerning HB 2024 establishing the Maunakea Stewardship Authority as it pertains to prohibiting commercial use and activities on Maunakea. I am married and a father of five young children. My career in Hawaii began over seven years ago with Hawaii Forest & Trail. I have learned over the years that I am very fortunate to have been hired as the owners, Rob and Cindy Pacheco, have given more to me and my family than I could ever give back to them. I have never been employed by a company that actually lives and breathes its mission and values on a daily basis, "To Share the Splendor of Hawai'i Nei and Inspire a Deep Connection with our Natural World". Our staff is deeply passionate about this island, the history, the culture, the nature, the people, and the locations we are fortunate to access and visit. One of those special places is Maunakea. I am proud of how our company commits to the safety of both our staff and guests. Our guides also are very knowledgeable about the importance of Maunakea is in the Hawaiian culture and history, and use the opportunity of our permitted access to educate our guests on how very special Maunakea is both historically, present day, and potentially in the future while safely transporting them to and from the summit. Our company's access is critical to each employee's livelihood. The importance of having the opportunity to access Maunakea is far reaching including our employees, their families, and each sub-industry that supports our company's operations. In the event Hawaii Forest & Trail would be unable to continue to provide meaningful experiences to Maunakea, there would be a direct negative impact to our company, the industry, the support industries, our staff and their families, our local communities & businesses. I believe our company has operated in a respectful manner on Maunakea as well as communicated to our guests the importance of Maunakea to the Hawaiian people. Our goal everyday is to hopefully transform our guests into stewards of Hawaii Island and the places we visit; we want them to be invested in Hawaii, to have deeper knowledge of where they have been, and to understand how to better care for it in the future. My livelihood & my family, like others employed at Hawaii Forest & Trail, depend on the success and health of the business. And the success and health

of our business is directly related to our continued access to Maunakea as a permitted commercial operator. I believe a solution exists where commercial operators can continue to safely access Maunakea and perpetuate the value and importance of Hawaiian culture and history. As I understand part of the bill's values and principles include Mauna Aloha, 'Ōpū Kupuna, and Holomua 'Oī Kelakela; and I believe Hawaii Forest & Trail and other like-minded operators already represent these values and are able to safely transport and communicate these principles to participating guests. It would be a tragedy on many levels to hinder access which would impact our local communities and businesses, including having a direct negative effect on the visitor industry to Maunakea.

HB-2024

Submitted on: 2/17/2022 4:39:16 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Katelyn Ingersoll	Individual	Oppose	No

Comments:

Testimony in Opposition to HB 2024 Maunakea Authority

February 17, 2022

Ms. Katelyn Ingersoll

73-6133 Plumeria Road

Kailua-Kona, HI 96740

Dear Representatives:

Please accept this testimony in opposition to HB 2024 as it pertains to prohibiting commercial use and activities on Maunakea.

As a former archaeologist with over a decade of experience on the mainland, and in the state and county of Hawai'i, I am passionate about the preservation of cultural resources, both tangible and intangible. I strongly believe that preserving Hawaii's unique natural resources and Kanaka Maoli culture and history depends on a sustainable tourism model, of which a crucial aspect is education and outreach aimed specifically at visitors of this state.

I left my chosen field 3 years ago to work for Hawaii Forest & Trail, a company that practices its mission to "To Share the Splendor of Hawai'i Nei and Inspire a Deep Connection with our

Natural World” with each and every guest it takes out. As a former Maunakea summit guide, I have seen firsthand the impact a respectful, knowledgeable guide can have on visitors to the summit.

I understand the bill’s values of Mauna Aloha, ‘Ōpū Kupuna, and Holomua ‘Oi Kelakela and I believe that responsibly led tours already represent these values on the Mauna by providing pre-contact and cultural context in a safe and controlled environment to tourists who would otherwise drive up to the summit on their own, ignorant of its dangers and immense importance, and seeking nothing more than clout and a picture for social media. Instead, on our guided tours, guests learn the fascinating and *almost* unbelievable history of Polynesian trans-pacific voyages through the use of star navigation and wayfinding. They learn about Papahānaumoku, Wākea and the creation of the first Kanaka. They hear stories of the deities who reside on Maunakea, and through that, the importance of using native place names and recognizing indigenous knowledge of ancestral places- like the legend of Pele and Poli'ahu and the geologic formations found in the Ice Age Preserve on Maunakea. All crucial contextual details that would otherwise go ignored, and unknown by most non-Polynesian visitors to the summit.

More personally- My fiance and I were able to buy our first home last year, thanks in part to the generous wages Hawaii Forest & Trail provides to all its employees. We rely on this wage to continue being a part of the community in Kona, where my fiance was raised and where we hope to raise our children. Permitted access to the summit of Maunakea on our highest-selling tour is crucial in providing living wages to all HFT employees and without it, the economic impact would be felt by not only staff and their families, but also supporting vendors, their families and communities. My livelihood & family, like those of my coworkers, depends on the success and health of Hawaii Forest & Trail which depends on continued permitted commercial access to the summit of Maunakea. I believe there is a common ground where responsible commercial use can continue, not just alongside, but in partnership with preservation and restoration efforts on the Mauna.

Mahalo for taking time to consider my testimony,

Katelyn

HB-2024

Submitted on: 2/17/2022 4:54:17 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
David Monk	Individual	Oppose	No

Comments:

Testimony AGAINST HB2024 - Hearing on 2/19/2022 9am

Aloha Chairs Tarnas, Nakashima, Luke, Vice Chairs Branco, Matayoshi, Yamashita, and members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

I am writing today to testify AGAINST HB2024. While the testimony below was prepared by the organization Imua TMT, I fully agree with the points set forth and assert that it accurately reflects my own position on this bill.

I commend the Mauna Kea Working Group and Speaker Saiki for continuing dialogue on the important issue of managing Mauna Kea. The group was given an impossible task - finding an alternative governing model for Mauna Kea that satisfies the TMT protesters and the rest of the State of Hawaii. The reality is that UH's management of Mauna Kea has been excellent and the major management failure of late has been the State's failure to enforce the law and arrest protesters unlawfully blockading the Mauna Kea Access Road to prevent the construction of the amazing Thirty Meter Telescope project. The creation of any new governing entity will merely serve to delay TMT and the renewal of the lease that governs the telescopes which expires in 2033. This is, of course, the protesters' objective, but it should not be the State of Hawaii's. I believe this new governance model proposal should be abandoned in favor of continuing UH's management under UH's new proposed plan and structure. Please do not pass this bill out of your committees.

To the extent this effort continues on, I have the following comments on HB2024:

1. The legislation currently proposes excluding the astronomy industry from having a seat on the board of the new proposed Mauna Kea management entity. The telescopes on Mauna Kea and the University of Hawaii maintain the access road and provide billions of dollars in investment and jobs to our economy. At a minimum the astronomy industry deserves a seat on the board tasked with management of Mauna Kea, either through the Mauna Kea Observatories group or the University of Hawaii, if not both.

2. Section 6 currently states that the authority shall establish a plan for eliminating astronomy on Mauna Kea. Astronomy on Mauna Kea provides unique educational opportunities, valuable high skill internships, and quality employment opportunities for the next generation of Hawaii. Eliminating astronomy would be a harsh setback for our children and is not be acceptable.

3. The legislation should include amendments to criminal statutes to allow for harsher punishments and quicker enforcement for blocking of public roadways. We do not want to end up like Canada.

3. The legislation includes a requirement that Mauna Kea above the 6500 foot elevation line be managed under HRS 205A, which governs "Coastal Lands". There is no explanation for why the summit of Mauna Kea, which by definition in this legislation is 6500 feet higher than the coastline, would be governed as "coastal land". The most probable reason is that the protesters know this is a much more restrictive zoning classification that could be used to completely exclude astronomy from the summit. This is obviously unacceptable. No zoning changes should be made that would endanger the astronomy industry on Mauna Kea.

4. All implication that Mauna Kea is "sacred" to all Native Hawaiians should be removed. Mauna Kea is not sacred as a Native Hawaiian matter, as you can read about here: <https://tinyurl.com/Hawaiians4TMT>. While some people might maintain beliefs in the kapu religion, and as part of their belief think Mauna Kea is sacred, their beliefs are not authoritative as a Native Hawaiian matter. Our ali`i abolished the kapu religion over 200 years ago and our constitution prohibits the government from establishing a religion. Thus, any mentions of sacredness must explain this nuance and explain that there are also Native Hawaiians who do not think Mauna Kea is sacred, or who think its sacredness is enhanced by the use of Mauna Kea for astronomy.

Mahalo nui loa,

David Monk, House District 17

HB-2024

Submitted on: 2/17/2022 4:58:32 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Svetlana Jovic-Bianchetti	Individual	Oppose	No

Comments:

Aloha,

I oppose this bill for several reasons.

It is clear that the main goal is to remove all astronomy research on Mauna Kea which is, in my opinion a grave mistake. Astronomy is an inherited part of the Hawaiians, after all they came to these islands using astronomy and science. Hawaii has an opportunity to be on the forefront and world leader in advancement of astronomy.

King David Kala kaua said on Hawai'i's role in the observations of the Venus Transit of December 8, 1874 : "It will afford me unfeigned satisfaction if my kingdom can add its quota toward the successful accomplishment of the most important astronomical observation of the present century and assist, however humbly, the enlightened nations of the earth in these costly enterprises."

This bill goes against the thought and feeling of a Hawaiian king from the 19th century. 2 centuries later we seem to be going back to the dark ages. Which are not even Hawaiian dark ages because clearly Hawaii ancestors valued science and astronomy.

The legislation currently proposes excluding the astronomy industry from having a seat on the board of the new proposed Mauna Kea management entity. The telescopes on Mauna Kea and the University of Hawaii maintain the access road and provide billions of dollars in investment and jobs to our economy. At a minimum the astronomy industry deserves a seat on the board tasked with management of Mauna Kea, either through the Mauna Kea Observatories group or the University of Hawaii, if not both.

Astronomy on Mauna Kea provides unique educational opportunities, valuable high skill internships, and quality employment opportunities for the next generation of Hawaii. Eliminating astronomy would be a harsh setback for our children and is not acceptable. Instead of eliminating astronomy research, the plans should be made to advance STEM in schools and give children of Hawaii immeasurable opportunities for their future. Instead of going away, they would stay here and used the opportunities given in their home. Hawaii kids leading the future in astronomy research ! – what could be better than that?

Eliminating astronomy from Mauna Kea is not protecting Hawaiian culture, it is undermining it.

I also oppose greatly the Section 11 that proposes prohibiting commercial activities on the mountain. I think that tour companies should be allowed to operate. Their access seems to be handled very well now, as there are only certain number of companies with a permit and with a certain number of people/vehicles allowed. When will the legislators and people in charge of tourism realize what a great opportunity for responsible tourism tour companies are? Instead of banning them and allowing individuals (who will trample plants and wander into the areas they should not go, who will need to be rescued when they go up to the mountain without regard or knowledge of the weather, roads...) the tour companies should be used as a wonderful educational tool. Instead of banning tour companies' access, why not invest in the education and allow companies to use only certified guides, who will teach visitors about culture, about Hawaii, about Hawaii people. That is sustainable and responsible tourism. Have you ever observed a visitor who goes on their own and those who go with a tour company? Who do you think will take better care of natural resources – the person who lives here, makes a living here, or the one who comes here once in their lifetime?

This bill seems to have been written either by or to appease backwards thinking people. Please do not pass it. Think about Hawaii future.

HB-2024

Submitted on: 2/17/2022 5:03:48 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Bronsten Kossow	Individual	Support	No

Comments:

Please support. Mahalo.

HB-2024

Submitted on: 2/17/2022 5:04:40 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Donna P. Van Osdol	Individual	Oppose	No

Comments:

Dear Chairs Tarnas, Nakashima, and Luke, Vice Chairs Branco, Matayoshi, and Luke and Members of the Committees:

I am a resident of HD36, and I support the Thirty Meter Telescope. However, today, I am writing my testimony opposing HB2024, Relating to Mauna Kea.

Any mention of Mauna Kea being sacred in the bill should be completely taken out because many Native Hawaiians do not believe it is sacred.

I do not believe that Mauna Kea qualifies as being "coastal land" at 6,500 feet.

The legislation currently proposes excluding the astronomy industry from having a seat on the board of the new proposed Mauna Kea management entity. The astronomy industry deserves a seat on the board tasked with management of Mauna Kea, either through the Mauna Kea Observatories group or the University of Hawaii, or both.

Most importantly, Section 6 of the bill calls for a plan that eliminates all astronomy from Mauna Kea. I think this is absolutely unconscionable, and would be a terrible setback for future generations who want to be astronomers some day.

Lastly, I believe that U.H. has been a good steward in managing Mauna Kea.

Thank you for your time and consideration.

HB-2024

Submitted on: 2/17/2022 5:20:10 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Robert Pacheco	Individual	Oppose	Yes

Comments:

Testimony in Opposition to HB 2024 Maunakea Authority

Mr. Rob Pacheco, P.O. Box 368, Holualoa, HI 96725

Dear Representatives:

Please accept this testimony in opposition concerning HB 2024 establishing the Maunakea Stewardship Authority. My name is Rob Pacheco, I am founder and owner of Hawaii Forest & Trail, one of the permitted commercial tour operators on Maunakea. We have operated guided interpretive tours on the mountain for 25 years. I served as the founding Chair of the Maunakea Management Board at UH for 8 years and was the Island of Hawaii member of the Board of Land & Natural Resources for two terms. I have spent a considerable amount of personal and professional time over the last 30 years in the field as a naturalist, birdwatcher and interpretive guide in the summit realm of Maunakea, in the rainforest of her windward slopes, and in her leeward dry forests and grasslands. I believe my long and diverse experience and relationship with Maunakea lends a unique and informed perspective of the mountain. Maunakea is a very special place for me.

There are several areas of HB2024 I have concerns and questions about. Overall, I am skeptical of the creation of another government bureaucracy to address the issues surrounding management of Maunakea and am not convinced the mountain or communities on the Island of Hawaii would benefit from such an endeavor. However, instead of debating the merits and demerits of creating an Authority or some other management regime, I would like to keep my comments directed to two specific issues I have with the bill as written.

My first comments are informed by my experience serving on the State Land Board and address Section 7 Jurisdiction of the act. The act calls for all state lands above 6500 elevation to be managed by the authority. While in concept I applaud the effort to bring all of these lands under one management regime, it does raise many questions. If the lands are transferred to the authority, will this be done by executive order? If so, what legal considerations will the transfer entail on the existing UH Lease and Sub-leases. How would the transfer impact the Maunakea Ice Age Natural Area Reserve Property? Does it remain with the NARS regime or will it be removed as a NAR? How will the transfer impact the existing Federal oversight within the Palila Critical Habitat? If the lands such as the NAR and Forest Reserves are transferred, who will do

the on the ground management that is now done by DLNR personnel? These are just a few of many questions and issues raised by such a large transfer of State lands.

It seems the legal, practical and fiscal implications raised by this large land transfer across multiple agencies as defined in Section 7 has not been completely comprehended. The sheer financial cost and administrative demands incurred by such a transfer must not be underestimated. As a Land Board member, I worked on several Executive Orders, all much simpler and straight forward than what's proposed here. Every single EO took years to work through the process. I hope the legislature will consider these unanswered questions and cogent issues before voting to approve this act.

The second issue I wish to address is the explicit prohibition of commercial use and activity above Hale Pohaku as noted in Section 11. I won't take up your time here with a recap of the long history of commercial activities in the summit precinct from the 1980's when the permits were administered by DLNR, to their transfer to UH by the Land Board in the 2000's. However, I'd like the legislature to **consider the implications of prohibiting commercial activity by statute at the outset of the Authority's creation as this bill does.**

If recreational access by the public is allowed to continue under the Authority, then guided interpretive tours would play an important role in hosting a subset of visitors to the summit in a safe, managed, and educational manner while providing significant revenues that will be needed for the great undertaking this act defines. Over the last decade, user fees generated by commercial tours have helped fund the Ranger Program, baseline environmental studies, cultural monitoring, and the operation and upkeep of the Visitor Information Station.

As noted in the Working Group's report, there is discussion of a future prohibition of private vehicles accessing the summit and creating a shuttle service. Let's suppose the Authority is created and decides to institute a shuttle service. It seems a concession or some form of contract may be used to provide this shuttle. Wouldn't that be a commercial use? As written, the act would prohibit this. The Working Group report reveals this prohibition was a very divisive issue. Why limit the options within law by including this prohibition? Changing one word [shall] with [may] in this section would keep options open to the Authority to fulfill the great task before it. Such wording would still allow a future prohibition on commercial activity, if indeed, that is the best way forward for the mountain. **Please change Section 11 from "The authority shall prohibit commercial use and activities...." to "The authority may prohibit commercial use and activities...."**

In conclusion, I oppose the bill overall in concept and as written. The complexity and costs associated with the transfer of all lands from 6500 elevation up is a complex and monumental administrative logistical task that deserves greater scrutiny and study. If the House chooses to move forward with this bill, the explicit prohibition of non-astronomy commercial activity by statute is short-sighted. If the Authority is created, it will need all the help it can find in funding its activities and that language should be changed.

Mahalo for your attention and consideration.

With Aloha,

[Rob Pacheco](#)

HB-2024

Submitted on: 2/17/2022 5:43:36 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Adrienne	Individual	Oppose	No

Comments:

Aloha,
Chairs Tarnas, Nakashima, Luke, Vice Chairs Branco, Matayoshi, Yamashita, and
Members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance:

I am writing today to testify AGAINST HB2024 and ask that each of you not pass this bill out of your respective committees.

It is submitted that for the benefit of the people of this state, the legislature's best position is to support UH's continued management of Mauna Kea and their updated management plan, which includes an unwavering commitment to the TMT.

Do the members believe the voters support the elimination of astronomy on Mauna Kea?

Section 6 of this bill states that the authority shall establish a plan for eliminating astronomy on Mauna Kea---which is the ultimate goal of the protestors. Make no mistake, the voters would view the passing this bill, or any iteration thereof, out of *any* committee, as an indication that the legislature supports that ultimate goal. It would certainly be publicly proclaimed that way by the protestors.

If Hawai'i did that, it would be a laughing stock of the world.

This state is losing too many young promising children to opportunities on the mainland. Providing any further platform on this subject to the so-called "protectors" denigrates the meaning to voters about following the law. The voters certainly took note of the governor's public failure, after years of hearings, to enforce the law which our own Supreme Court affirmed.

What are your voters to assume if you allow any group with no authority or credibility whatsoever to eliminate educational and vocational opportunities in science and astronomy and stop a billion dollar infusion of money into this state for false claims of sacredness?

Their position on this issue is not authoritative as a Native Hawaiian matter. It was a Hawaiian woman, Queen Ka'ahumanu, who convinced the king, Liholiho, Kamehameha II, to abolish the kapu system as bigoted against women. The kapu "science" was publicly proved false when the king ate food with the queens and other women ali'i. Take note this was before the missionaries came. To honor these protestors' claims of kapu sacredness any further is to dishonor the very Queen who smashed the idols of ignorance they seek to resurrect.

To truly honor Mauna Kea, we would thank and bless it for providing the children of Hawai'i and the world with a singularly unique altar on which to view God's handiwork.

Do you not agree?

The University of Hawai'i is eminently qualified to continue to manage the mountain. Any further interference is unwarranted.

Thank you for your attention.

Adrienne King
House District 17

HB-2024

Submitted on: 2/17/2022 5:55:52 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lory M. Hunter	Individual	Oppose	No

Comments:

I feel that UH is doing a wonderful job of maintaining the mountain, listening to the public and implementing new policy that reflects their input. I do not feel that creating a new board would solve any problems.

HB-2024

Submitted on: 2/17/2022 7:11:47 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Shannon Rudolph	Individual	Oppose	No

Comments:

Oppose

Thursday, February 17, 2022

Aloha Chairs and members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance,

Thank you for the opportunity to provide written testimony in **SUPPORT of HB2024.**

The proper stewardship of Mauna a Wākea has long been debated with numerous Native Hawaiian, environmental and community groups raising concerns over the decades.

Many formal reviews have validated the community's concerns. The Hawai'i State Auditor's Office released reports in 1998, 2005, 2014, and 2017 that were critical of the University of Hawai'i's (UH) stewardship of Mauna a Wākea. Most recently, the Department of Land and Natural Resources' "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan" found that while UH's management of Mauna a Wakea had improved, it failed to timely approve administrative rules; failed to consult with the Native Hawaiian community on cultural resources issues; and failed to engage with the community, particularly the Native Hawaiian community, on education and outreach efforts.

HR33, HD1, aimed to address these longstanding issues by establishing a Mauna Kea Working Group (Working Group) to provide recommendations to develop a new governance and management structure for Mauna a Wākea.

As a Native Hawaiian supporter of a healthy and protected Mauna a Wākea, I strongly urge you to pass HB2024 with the following amendments:


- Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report - Ho'okikī Kānāwai, Kua'ā Kānāwai, Kai'okia Kānāwai, Kīho'iho'i Kānāwai;
- Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group's Report; and
- Add language that would require the University of Hawai'i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

In conclusion, the leadership of the House of Representatives declared a bold commitment to take steps towards economic, cultural, and environmental justice. Your support of HB2024 will make good on your commitments to your constituents, and Hawai'i's precious natural and cultural resources.

Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group:

He lā hou kēia ma Mauna a Wākea.
A new day has indeed arrived on Mauna a Wākea.

Me ke aloha no Mauna a Wākea,



Signature

HB-2024

Submitted on: 2/17/2022 7:22:33 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Cheryl Ernst	Individual	Oppose	No

Comments:

Aloha Chairs Tarnas, Nakashima and Luke; Vice Chairs Branco, Matayoshi and Yamashita; and members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance

I am writing today to testify AGAINST HB2024, which is a misguided piece of legislation based on a flawed report.

My Hawaiian name is Ke Kahi Puuwai Aloha. I am in my fourth decade as 'olapa, a student of hula, and I have the highest respect for Native Hawaiian culture. I believe Native Hawaiians have legitimate complaints requiring redress, but restriction of astronomy on Mauna Kea does not achieve this aim and TMT protestors do not speak for all, or even the majority of kanaka maoli.

It is possible to revere a landmark and still use it wisely, as the ancestors did in respectfully quarrying material for adzes on the mountain. They made keen observations and gleaned sophisticated understanding of the natural world. Just as they recognized the superior quality of Mauna Kea rock for tools, I believe they would have accepted Mauna Kea's standing as the premier location for Earth-based astronomy and been eager to learn as the secrets of the universe were revealed.

Members of the astronomy community MUST be represented on any management group. Astronomy brings significant benefits to the islands - economic (good-paying jobs, spending, etc.), educational (opportunities for local youth), prestigious (our reputation as something more than a tourist stop) AND the opportunity to educate the world on Hawaiian language and culture (as astronomers did by consulting with Hawaiian scholars and giving Hawaiian names to discoveries such as Comet 'Oumuamua and the Laniakea Supercluster.

Classifying the summit of a volcano as coastal lands is a horrible precedent. That alone should deep-six this bill! And giving "sacred" status to any item or location violates our constitutional guarantee of freedom from religion, never mind that there is NO consensus among Native Hawaiians that Mauna Kea holds such status.

I recognize management of the mountain was lax in the past, and I have witnessed the improvement in management and the increased cultural education of scientists who use the mountain since it came under the University of Hawai'i's purview. Continuing the current management plan is the best option given the flaws inherent in the proposed legislation.

I cannot count the number of people of a wide range of ethnic backgrounds and political persuasions who expressed frustration and anger at the failure of the State to remove protestors who blocked access to the summit. Perhaps this would be a more appropriate focus of legislation.

I have attended anti-TMT "education" sessions, and I recognize how intimidating the vocal minority can be. But please DO NOT allow this flawed legislation to pass out of committee.

Melody Kapilialoha MacKenzie
579 Kāneʻapu Place, Kailua, Hawaiʻi 96734

H.B. 2024
RELATING TO MAUNA KEA

Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance
Hearing: Saturday, February 19, 2022, at 9:00 am

Aloha Members of the House Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance:

He lā hou kēia ma Mauna a Wākea.
A new day has indeed arrived on Mauna a Wākea.

I begin my written testimony with the words offered by the Mauna Kea Working Group in its recent report, and I ask that you pass H.B. 2024 to bring to fruition the promise of those words. I am an attorney, an advocate for the Native Hawaiian community, and a Professor Emerita at the William S. Richardson School of Law. I am also a hula practitioner, having studied and graduated as a kumu hula under the guidance and mentorship of Kumu Hula Māpuana de Silva of Hālau Mōhala ʻIlima. I submit this testimony in my personal capacity.

As you are well aware, the proper stewardship of Mauna a Wākea has long been debated in the larger Hawaiʻi community, with numerous Kānaka ʻŌiwi, environmental, and community groups raising concerns about the ability of the University of Hawaiʻi (UH) to mālama Mauna a Wākea. Over many years, formal reviews, including four reports by the Hawaiʻi State Auditor beginning in 1998 and extending to 2017, have been critical of UH's stewardship of Mauna a Wākea. In December 2020, the Department of Land and Natural Resources received an independent evaluation of UH's implementation of its management plan for the Mauna. This independent evaluation, the Kuʻiwalu report, found that while there had been improvement, UH had failed in significant ways. These shortcomings included: failing to timely approve administrative rules; failing to consult with the Kānaka ʻŌiwi community on cultural resource issues; and, failing to engage with the community, particularly the Native community, on education and outreach efforts.

Given the many issues raised by the community and validated by the Auditor's reports and the Kuʻiwalu report, this body passed House Reso. No. 33, H.D. 1, in 2021. It established the Mauna Kea Working Group to provide recommendations to develop a new governance and management structure for Mauna a Wākea. The bill under consideration today, H.B. 2024, reflects many of the concerns examined by, and seeks to implement the recommendations of, the Working Group. Thus, I am very supportive of this bill, which creates a new governing entity for the care and stewardship of our sacred mountain and its precious natural resource.

I strongly urge you to pass H.B. 2024 and, in doing so, to consider the following amendments, recommended by members of the Mauna Kea Working Group:

- Re-insert the Kumu Kānāwai, which is Foundational - Hoʻokikī Kānāwai, Kuaʻā Kānāwai, Kaiʻokia Kānāwai, Kīhoʻihoʻi Kānāwai;
- Utilize the designation Mauna a Wākea for all relevant state related references; and,
- Add language that would stop all actions related to the Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and operational.

In 2021, the House of Representatives made a bold commitment to take steps towards economic, cultural, and environmental justice by establishing the Mauna Kea Working Group. Your action now would truly help to move the State forward on the path of pono and justice. Mahalo for the opportunity to present this testimony in **support** of H.B. 2024.

Aloha committee chairs and vice chairs,

I want to testify AGAINST HB 2024.

IN THE MID 1980s, I worked for Dames & Moore, a geotechnical company, as the geologist. I was sent to do the preliminary site assessment for an upgrade of the summit road on Mauna Kea. I spent 3 days on the summit & in that time, I saw Lake Waiau, the adze quarry, all the glacial features and the telescopes on the summit.

I did not see a single man made feature such as a rock alter or an ahu! The only signs of human activity was at the adze quarry and those appeared to be very old.

Granted, the summit is spectacular! And should be well managed. But any plan that does not include astronomy at the table is absurd! Linking a 13,000 ft. volcanic summit to coastal regulations is also absurd! The state of Hawaii benefits greatly for the presence of this industry for it brings significant income, jobs, prestige and educational opportunities for our keiki!

I'm sure you've heard all this before and it isn't as noisy as that presented by the protestors. Just think of what we will lose if we fail to support science in the islands.
PLEASE DO NOT ALLOW HB2024 TO PASS OUT OF COMMITTEE! We can do better.

Aloha,
Patricia D. Lee
HAWAII RESIDENT AND VOTER SINCE 1965

House Committees on Water and Land; Judiciary and Hawaiian Affairs; and Finance
9:00 A.M. – Saturday, 19 February 2022
State Capitol, Conference Room 430 via Video Conference

HB 2024
Relating to Mauna Kea

Aloha,

My name is Jacqui Hoover and while I have the privilege of serving concurrently as President and COO of the Hawai'i Leeward Planning Conference (HLPC) and as Executive Director and COO of the Hawai'i Island Economic Development Board (HIEDB), today I submit these remarks as a concerned Native Hawaiian and private citizen born, raised, and resident of Hawai'i Island.

I am extremely proud of my heritage and all that my kupuna have done to allow me to be here. I very much appreciate the commitment, concern, and thoughtfulness demonstrated by the working group and the integration of important cultural informatics, values, and context into HB 2024. And I am also keenly aware of, and personally face the challenge of navigating through the gauntlet to reconcile past and present without sacrificing either the future or being disrespectful of the rich legacy bestowed on me by my kupuna.

Therein lies the foundational reason that I disagree with HB 2024 and proposal to enact a new governing entity for the management of Mauna Kea. While I agree that there have been errors made under the current managing entity and there remains room for improvement, I also recognize there has been a great deal of work, effort, and inclusion to make important changes to management practices and style. Having a framework in place that can be corrected, improved, and strengthened is preferable to throwing the proverbial baby out with the bath water and starting from scratch. I therefore support continued stewardship and management by the University of Hawaii, and request that the working group whose report led to HB 2024 be reconvened and broadened to discuss how to collaborate with the University to guide, nurture and support "the baby" and integrate the important cultural informatics, values, and guidance to be a better "parent".

I am very concerned about inadvertent consequences and precedents put forth in the bill regarding public lands and seizure, particularly by the language stating that the stewardship authority to be formed "shall hold title to. . .state-managed lands above the six thousand five hundred foot elevation line. . .to the summit of Mauna Kea. . .[and] shall establish access, stewardship, and management policies for Mauna Kea lands, including but not limited to policies pertaining to the protection of natural and cultural resources, all recreational activities, and all commercial uses."

In summary, HB 2024 is ill-conceived, is fraught with questions about constitutionality, is not inclusive, and I humbly request it not be approved.

Mahalo for allowing me to express my thoughts on this subject.

Respectfully submitted,

Jacqui Hoover
P.O. Box 384014,
Waikoloa, HI 96738
E-mail: jacquihoover@gmail.com

HB-2024

Submitted on: 2/17/2022 8:22:57 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Michelle Miki'ala Pescaia	Individual	Support	No

Comments:

Thank you for the opportunity to provide written testimony in SUPPORT of HB2024. The proper stewardship of Mauna a Wākea has long been debated with numerous Native Hawaiian, environmental and community groups raising concerns over the decades.

Formal reviews have validated the community's concerns. The Hawai'i State Auditor's Office released reports in 1998, 2005, 2014, and 2017 that were critical of the University of Hawai'i's (UH) stewardship of Mauna a Wākea. Most recently, the Department of Land and Natural Resources' "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan" found that the while UH's management of Mauna a Wakea had improved, it failed to timely approve administrative rules; failed to consult with the Native Hawaiian community on cultural resources issues; and failed to engage with the community, particularly the Native Hawaiian community, on education and outreach efforts.

HR33, HD1, aimed to address these longstanding issues by establishing a Mauna Kea Working Group (Working Group) to provide recommendations to develop a new governance and management structure for Mauna a Wākea.

As a supporter of a healthy and protected Mauna a Wākea, we strongly urge you to pass HB2024 with the following amendments:

- Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report - Ho'okikī Kānāwai, Kua'ā Kānāwai, Kai'okia Kānāwai, Kīho'iho'i Kānāwai;
- Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group's Report; and
- Add language that would require the University of Hawai'i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational

Let us move towards leadership, structure and responsible stewardship that supports positive movement in the right direction.

Chairs Tarnas, Nakashima, and Luke, and members of the House
Committees on Water & Land , Judiciary & Hawaiian Affairs, and Finance:

I support HB2024, which establishes a new authority to properly oversee the
stewardship of Mauna a Wākea or Mauna Kea.

This bill is comprehensive, detailing among other things, a three-year time
period for the transfer and transition from the University of Hawaii to the
authority. Until the transfer occurs, the University of Hawaii will continue
management and control over the designated Mauna Kea areas, including
any lease or contractual issues.

May I suggest that the Committees consider adding a moratorium clause
that disallows action by the University of Hawaii or its designate on any
lease or contract until the transfer to the authority. A moratorium stabilizes
the restrictions and responsibilities for all parties in the interim. These may
continue to be reviewed, observed, and enforced in the University's striving-
to-improve-mode during the transition.

A moratorium is unlikely to cause an undue burden. For example, it has
recently been reported that dismantling of the small CSO telescope on
Mauna a Wākea, as promised in 2015, has only just started.

Mahalo for your consideration.
Catherine Chang

I am writing to express my concern about the implications of HB2024, especially as related to the future of astronomy in Hawaii. The Mauna Kea Working Group Draft Report, strongly reflected in HB2024, provides welcome, and overdue, recognition of the need for more direct Native Hawaiian involvement in decision-making about the use of Mauna Kea. It also nicely explicates the special relationship between Native Hawaiian individuals and the 'āina, which should certainly inform planning and management to a substantial degree going forward. It does not follow, however, that there is need for an entirely new management organization to meet these goals. OMKM (now Center for Mauna Kea Stewardship) management of Mauna Kea lands has improved dramatically since the critical 1998 State Auditor's Report. While progress still needs to be made with respect to the aspects of management mentioned above, it is not at all clear that the current CMKS management could not incorporate additional emphasis on meeting them. In addition, CMKS already has substantial experience in actually managing Mauna Kea—protecting and overseeing scientific research on the environment; astronomy and related support services; commercial activity; the ranger system and managing visitors; and, yes, cultural resource management. Why reinvent the wheel only to squander this experience in the process?

Of particular concern in HB2024 is the blatant disregard for astronomy, a critical activity on the mountain, with the summit being the best observational vantage point in the Northern Hemisphere, if not the entire world. In addition to being a world-class arena to advance scientific and human knowledge generally, it is an important driver of economic activity and jobs for Hawai'i Island and for the state. According to the January 30th UHERO update, it provides 1,313 Hawaii jobs directly, and was calculated to have \$221 million dollars of direct and indirect contribution to the state's economy, making it one of the top five economic activities in Hawaii.

Despite the importance of astronomy, HB2024 is quite concerned with limiting its scope on Mauna Kea. As there are currently significant limits on future astronomical activity, the additional constraints contained in HB2024 seem to be aimed toward slowly but surely extinguishing astronomy on Mauna Kea, and not just managing it. Again, given the importance of astronomy for expanding human knowledge, and as a contributor to the state's economy (and prestige as a model for scientific endeavor), there absolutely should be a representative from the astronomy community on any eventual Governing Entity, as proposed in HB2024. The absence of an astronomy representative only highlights the glaring prejudice against astronomy in the bill.

As Peter Apo recently wrote in a Honolulu Civil Beat opinion piece, "The TMT-Mauna Kea conundrum is centered on the protestors' insistence that the entire mountain is sacred. In the absence of a culturally authoritative ruling body to validate or dismiss such a religious claim, there is no way to even have a dialogue." While HB2024 does not address the TMT directly, it is certainly a presence looming in the background. And Mr. Apo's comment seems relevant to the HB2024 attitude toward astronomy on Mauna Kea generally.

Many astronomy opponents seem to have the goal of ridding the mauna entirely of astronomical activity. But a very large number, perhaps even a majority, of residents of both Hawai'i Island and the entire state would like to see a model partnership of science and

indigenous culture developed for Mauna Kea. It could be a visionary example for the entire world. I want to see this exact kind of mutually respectful, and yes, synergistic, and mutually beneficial partnership. I am saddened and horrified at the prospect of a retreat into a parochial rejection of modernity. The Governing Entity, as outlined in HB2024, does not seem to be directed toward this kind of visionary partnership at all. Perhaps more importantly, it would also appear to miss representing the wishes of a large part of the state, including those of many Native Hawaiians. Removing astronomy from the mountain would not rectify past injustices, would not provide better housing, health care, or educational opportunities for Native Hawaiians. In fact, it would ultimately remove many jobs, and many, many further educational and potential employment opportunities for young Hawaiians. Notably, astronomy on the mauna provides an advanced technology component for Hawaii's economy, which struggles to diversity beyond tourism and the military.

So, the questions remain. Why change from a management structure that already knows a great deal about stewardship of the mauna, and has demonstrated growing competence at that task to boot? It doesn't take a crystal ball to see what HB2024 intends for astronomy. The editorial board of "The Honolulu Star-Advertiser" stated the mission succinctly: "In short, this is a phase-out plan toward the elimination of astronomy on Mauna Kea — world-renowned as the best site in the Northern hemisphere for research telescopes due to its high elevation and pristine viewing conditions." Mauna Kea is, in short, an unparalleled treasure for the state, the country, and the world. And so the biggest question of all presents itself: HB2024 seeks to kill astronomy for.... what?

Thomas Blackburn
Kailua Kona

HB-2024

Submitted on: 2/17/2022 9:09:18 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Robert Douglas	Individual	Support	No

Comments:

Aloha members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance,

Thank you for the opportunity to provide written testimony in SUPPORT of HB2024. The proper stewardship of Mauna a Wākea has long been debated with numerous Native Hawaiian, environmental and community groups raising concerns over the decades.

I am a retired haole computer engineer and respect the wishes of the cultural practioners. As such I'm forwarding their request in their own words.

Formal reviews have validated the community's concerns. The Hawai'i State Auditor's Office released reports in 1998, 2005, 2014, and 2017 that were critical of the University of Hawai'i's (UH) stewardship of Mauna a Wākea. Most recently, the Department of Land and Natural Resources' "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan" found that the while UH's management of Mauna a Wakea had improved, it failed to timely approve administrative rules; failed to consult with the Native Hawaiian community on cultural resources issues; and failed to engage with the community, particularly the Native Hawaiian community, on education and outreach efforts.

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- Add language that would require the University of Hawai‘i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

In conclusion, the leadership of the House of Representatives declared a bold commitment to take steps towards economic, cultural, and environmental justice. Your support of HB2024 will make good on your commitments to your constituents, and Hawai‘i’s precious natural and cultural resources.

Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group:

He lā hou kēia ma Mauna a Wākea.

A new day has indeed arrived on Mauna a Wākea.

Me ke aloha no Mauna a Wākea,

Mahalo nui,

Robert Douglas

HB-2024

Submitted on: 2/17/2022 9:10:29 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kimberly Mills	Individual	Oppose	No

Comments:

The nomination committee CAN NOT include those that honor Pele as that would be an affront to Poliahu. No one that worships Pele should be allowed on Maunakea in respect of Poliahu. I am of Kalauao, Oahu; my Parents and Ancestors are of Hawaii-Hilo, Aleamai, Waipio, Honokaa, Kohala.

HB-2024

Submitted on: 2/17/2022 9:30:36 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Crysten Kalua	Individual	Support	No

Comments:

Aloha members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance,

My name is Crysten Kalua, a local resident of Hawaii, and I am writing to you in SUPPORT of HB2024. The proper stewardship of Mauna a Wākea has long been debated with numerous Native Hawaiian, environmental and community groups raising concerns over the decades.

Formal reviews have validated the community's concerns. The Hawai'i State Auditor's Office released reports in 1998, 2005, 2014, and 2017 that were critical of the University of Hawai'i's (UH) stewardship of Mauna a Wākea. Most recently, the Department of Land and Natural Resources' "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan" found that the while UH's management of Mauna a Wakea had improved, it failed to timely approve administrative rules; failed to consult with the Native Hawaiian community on cultural resources issues; and failed to engage with the community, particularly the Native Hawaiian community, on education and outreach efforts.

HR33, HD1, aimed to address these longstanding issues by establishing a Mauna Kea Working Group (Working Group) to provide recommendations to develop a new governance and management structure for Mauna a Wākea.

As supporters of a healthy and protected Mauna a Wākea, we strongly urge you to pass HB2024 with the following amendments:

Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report - Ho'okikī Kānāwai, Kua'ā Kānāwai, Kai'okia Kānāwai, Kīho'iho'i Kānāwai;

Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group's Report; and

Add language that would require the University of Hawai'i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

In conclusion, the leadership of the House of Representatives declared a bold commitment to take steps towards economic, cultural, and environmental justice. Your support of HB2024 will make good on your commitments to your constituents, and Hawai'i's precious natural and cultural resources.

Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group:

He lā hou kēia ma Mauna a Wākea.

A new day has indeed arrived on Mauna a Wākea.

Me ke aloha no Mauna a Wakea,

Crysten Kalua

HB-2024

Submitted on: 2/17/2022 9:35:39 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Susan Iha	Individual	Oppose	No

Comments:

Subj: Testimony AGAINST HB2024 - Hearing on 2/19/2022 9am

Aloha Chairs Tarnas, Nakashima, Luke, Vice Chairs Branco, Matayoshi, Yamashita, and members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

I am writing today to testify AGAINST HB2024.

I commend the Mauna Kea Working Group and Speaker Saiki for continuing dialogue on the important issue of managing Mauna Kea. The group was given an impossible task - finding an alternative governing model for Mauna Kea that satisfies the TMT protesters and the rest of the State of Hawaii. The reality is that UH's management of Mauna Kea has been excellent and the major management failure of late has been the State's failure to enforce the law and arrest protesters unlawfully blockading the Mauna Kea Access Road to prevent the construction of the amazing Thirty Meter Telescope project. The creation of any new governing entity will merely serve to delay TMT and the renewal of the lease that governs the telescopes which expires in 2033. This is, of course, the protesters' objective, but it should not be the State of Hawaii's. I believe this new governance model proposal should be abandoned in favor of continuing UH's management under UH's new proposed plan and structure. Please do not pass this bill out of your committees.

To the extent this effort continues on, I have the following comments on HB2024:

1. The legislation currently proposes excluding the astronomy industry from having a seat on the board of the new proposed Mauna Kea management entity. The telescopes on Mauna Kea and the University of Hawaii maintain the access road and provide billions of dollars in investment and jobs to our economy. At a minimum the astronomy industry deserves a seat on the board tasked with management of Mauna Kea, either through the Mauna Kea Observatories group or the University of Hawaii, if not both.
2. Section 6 currently states that the authority shall establish a plan for eliminating astronomy on Mauna Kea. Astronomy on Mauna Kea provides unique educational opportunities, valuable high skill internships, and quality employment opportunities for the next generation of Hawaii. Eliminating astronomy would be a harsh setback for our children and is not be acceptable.
3. The legislation should include amendments to criminal statutes to allow for harsher

punishments and quicker enforcement for blocking of public roadways. We do not want to end up like Canada.

3. The legislation includes a requirement that Mauna Kea above the 6500 foot elevation line be managed under HRS 205A, which governs "Coastal Lands". There is no explanation for why the summit of Mauna Kea, which by definition in this legislation is 6500 feet higher than the coastline, would be governed as "coastal land". The most probable reason is that the protesters know this is a much more restrictive zoning classification that could be used to completely exclude astronomy from the summit. This is obviously unacceptable. No zoning changes should be made that would endanger the astronomy industry on Mauna Kea.

4. All implication that Mauna Kea is "sacred" to all Native Hawaiians should be removed. Mauna Kea is not sacred as a Native Hawaiian matter, as you can read about here: <https://tinyurl.com/Hawaiians4TMT>. While some people might maintain beliefs in the kapu religion, and as part of their belief think Mauna Kea is sacred, their beliefs are not authoritative as a Native Hawaiian matter. Our ali`i abolished the kapu religion over 200 years ago and our constitution prohibits the government from establishing a religion. Thus, any mentions of sacredness must explain this nuance and explain that there are also Native Hawaiians who do not think Mauna Kea is sacred, or who think its sacredness is enhanced by the use of Mauna Kea for astronomy

Mahalo

HB-2024

Submitted on: 2/17/2022 9:49:30 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kerrissa Aweau	Individual	Support	No

Comments:

Aloha members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance,

My name is Kerrissa Aweau, a local resident of Hawaii, and I am writing to you in SUPPORT of HB2024. The proper stewardship of Mauna a Wākea has long been debated with numerous Native Hawaiian, environmental and community groups raising concerns over the decades.

Formal reviews have validated the community's concerns. The Hawai'i State Auditor's Office released reports in 1998, 2005, 2014, and 2017 that were critical of the University of Hawai'i's (UH) stewardship of Mauna a Wākea. Most recently, the Department of Land and Natural Resources' "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan" found that the while UH's management of Mauna a Wakea had improved, it failed to timely approve administrative rules; failed to consult with the Native Hawaiian community on cultural resources issues; and failed to engage with the community, particularly the Native Hawaiian community, on education and outreach efforts.

HR33, HD1, aimed to address these longstanding issues by establishing a Mauna Kea Working Group (Working Group) to provide recommendations to develop a new governance and management structure for Mauna a Wākea.

As supporters of a healthy and protected Mauna a Wākea, we strongly urge you to pass HB2024 with the following amendments:

Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report - Ho'okikī Kānāwai, Kua'ā Kānāwai, Kai'okia Kānāwai, Kīho'iho'i Kānāwai;

Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group's Report; and

Add language that would require the University of Hawai'i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

In conclusion, the leadership of the House of Representatives declared a bold commitment to take steps towards economic, cultural, and environmental justice. Your support of HB2024 will

make good on your commitments to your constituents, and Hawai‘i’s precious natural and cultural resources.

Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group:

He lā hou kēia ma Mauna a Wākea.

A new day has indeed arrived on Mauna a Wākea.

Me ke aloha no Mauna a Wākea,

____Kerrissa K Aweau_____
Signature



Restore the Commons

Saturday, February 19, 2022, 9:00 am

House Committees on Water and Land, Judiciary and Hawaiian Affairs, and Finance

HOUSE BILL 2024 – RELATING TO MAUNA KEA

Position: Support, with amendments

Me ke Aloha, Chairs Tarnas, Nakashima, and Luke; Vice-Chairs Branco and Matayoshi, and Members of the Committees on Water and Land, Judiciary and Hawaiian Affairs, and Finance.

As an indigenous person from a different homeland, I respect the care taken in preparing this bill, and the thoughtfulness in presenting the proposal for a Mauna a Wākea Stewardship Authority. It appears to be an earnest attempt to consider an indigenous perspective, to capture respected leadership, and engage a serious decision-making process.

Those of us respecting the native Hawaiian kuleana for the mountain have been deeply disturbed by the competing ideas for the mountain and the apparent lack of responsibility for maintaining high standards for management. We have supported the protectors who have embraced kapu aloha in the effort to rectify transgressions upon the meanings and values of the mountain. We remain keen to support the native sensibilities and responsibilities, as this bill appears to try to do.

The shared responsibility represented by the State of Hawaii and the Nation of Hawaii appears to be an effort to find a workable platform for moving toward satisfactory oversight of activities on the mountain.

Having said all of that, the crushing reality is that Section § -8 nonetheless perpetuates the illegality of annexation and Statehood clearly determined under international law, perpetuating the military usurpation of proper authority for resolving such matters of crucial import to the Hawaiian Nation. This is fully understandable as an effort by State officials to do the right thing under their own auspices, but consequently fatally flawed. The spectacle of kapu aloha having re-emerged from the Hawaiian Nation is a sign that this issue, paramount among many, has galvanized the Nation to assume its rightful place by way of its citizens.

It may well be that the Stewardship Authority will arrive at striking odds with the expectations of this legislation, but the selection process appears to rule out a vigorous assertion of international law and the proper auspices of the Hawaiian Nation. The process of discussion may, however, attract a forthright juxtaposition of illegality and international law for all Hawaii to see, and for this reason, I support it, with amendments. With respect to the noted Section § -8, it should be struck altogether from this bill.

The bill is, in fact, an opportunity for the good offices of the State to display the courage of its convictions in achieving a just resolution of many ongoing issues present at Mauna a Wākea.

Section § -2 should be amended to add a tenth member of the Authority, to read: (10) a native Hawaiian individual with expertise in international law and familiar with efforts at the United Nations to resolve violations of international law represented by the seizure of the government of the Kingdom of Hawaii by white supremacist merchants and missionaries, supported by a contingent of the U.S. military, with cannon and supplies, from the leading warship U.S.S. Boston at a time when the defense of the islands was decimated by western disease, nominated by Hawaiian sovereignty groups.

Section § -3 Nomination process; nominating committee; office of Hawaiian affairs. (a) There shall be established a nominating committee comprised of six members. One member shall be appointed by the speaker of the house of representatives, one member shall be appointed by the senate president, and

one member shall be appointed by the chief executive officer of the office of Hawaiian affairs; three additional members shall be appointed by agreement among Hawaiian sovereignty groups and civic clubs; provided that consideration shall be given to residents of the county of Hawaii and especially to native Hawaiian practitioners.

A new section should be placed between § -11 (b) and (c) with the following language:

(-) The authority shall, in consultation with native Hawaiian practitioners, develop guidelines for the normal and unfettered exercise of traditional and customary practices within the lands under the authority.

Mahalo for the opportunity to address this issue,

Charley Ice, Hoa'āina; indigenous to the Central Sierra Nevada lands of Oksumne and Tuolumne

**Building the new normal with People and Land: Food Security Health Care Public Banking
Regenerating Soils Cutting Waste Eliminating GHG emissions**

HB-2024

Submitted on: 2/17/2022 10:35:26 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Sarah Garcia	Individual	Oppose	No

Comments:

In regards to this bill, I would like to submit the following testimony.

I have worked for a commercial tour company with a permit on Mauna Kea for the past 10 years. I have seen the good that can come from having organized operators take responsibility for people, and I submit that commercial tour operators provide a valuable level of control and assistance in managing public use of Mauna Kea. Commercial operators who maintain permits for Mauna Kea keep staff on hand that are trained not only in emergency procedures and safe driving, but also in cultural, historical, and scientific education for tourists relating to Mauna Kea. Commercial tours help control tourist numbers in a safe manner, and also help generate income and provide a living for many island residents.

Outside of any connection to an operator, I am also a resident of this island. Removing organized access to Mauna Kea removes safe access to Mauna Kea. Mauna Kea is not privately owned: it belongs to the people. We should have the option of safe and guided access. Commercial operators are specially trained and equipped to provide this access. It makes much more sense to continue to provide it by allowing these companies to do what they are trained to do. I have worked in federal government departments in the past and requiring applications for every single person is going to create a big mess and a big backlog.

These are my personal opinions and may or may not reflect the opinions of my workplace. Thank you for your time.

HB-2024

Submitted on: 2/17/2022 10:45:57 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Iisha Lindsey	Individual	Support	No

Comments:

Aloha members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance,

My name is Iisha Lindsey, a local resident of Hawaii, and I am writing to you in SUPPORT of HB2024. The proper stewardship of Mauna a Wākea has long been debated with numerous Native Hawaiian, environmental and community groups raising concerns over the decades.

Formal reviews have validated the community's concerns. The Hawai'i State Auditor's Office released reports in 1998, 2005, 2014, and 2017 that were critical of the University of Hawai'i's (UH) stewardship of Mauna a Wākea. Most recently, the Department of Land and Natural Resources' "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan" found that the while UH's management of Mauna a Wakea had improved, it failed to timely approve administrative rules; failed to consult with the Native Hawaiian community on cultural resources issues; and failed to engage with the community, particularly the Native Hawaiian community, on education and outreach efforts.

HR33, HD1, aimed to address these longstanding issues by establishing a Mauna Kea Working Group (Working Group) to provide recommendations to develop a new governance and management structure for Mauna a Wākea.

As supporters of a healthy and protected Mauna a Wākea, we strongly urge you to pass HB2024 with the following amendments:

Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report - Ho'okikī Kānāwai, Kua'ā Kānāwai, Kai'okia Kānāwai, Kīho'iho'i Kānāwai;

Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group's Report; and

Add language that would require the University of Hawai'i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

In conclusion, the leadership of the House of Representatives declared a bold commitment to take steps towards economic, cultural, and environmental justice. Your support of HB2024 will make good on your commitments to your constituents, and Hawai'i's precious natural and cultural resources.

Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group:

He lā hou kēia ma Mauna a Wākea.

A new day has indeed arrived on Mauna a Wākea.

Me ke aloha no Mauna a Wākea,

Signed Iisha Lindsey 2245HST

Ann K. Nu'uhiwa, PhD
PO Box 1144
Hilo, Hi, 96721

Testimony by Kalei Nu'uhiwa in **support** of **HB2024** Relating to Mauna A Wākea
Senate Committees on Water & Land,
Judiciary & Hawaiian Affairs, and
Finance
Saturday, February 19, 2022

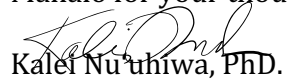
Aloha kākou e Chairs Luke, Tarnas and Nakashima, Vice Chairs Yamashita, Branco, Matayoshi, and members of the Senate Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance.

My name is Kalei Nu'uhiwa and I am testifying in **support** of **HB 2024** Relating to Mauna Kea, with suggested amendments. The University of Hawai'i is an educational institution and not a land or resource management institution.

As a native Hawaiian cultural practitioner, ethno-astronomer, and citizen of Hawai'i Island, I recognize the cultural, religious, spiritual, and scientific significance of Mauna Kea also known by its sacred name Mauna A Wākea. The profound intelligence woven into genealogies, ko'ihonua, and mo'olelo clearly demonstrates the pertinent functions of the akua (natural phenomena) who preside on the Mauna. The poetry states that Mauna A Wākea provides the processes necessary for the water and life cycles which sustains living organisms and human life downslope in the kanaka regions. Due to these reasons, I support the establishment of a Mauna A Wākea stewardship authority as defined in HB2024 as the sole authority for management of state-managed lands on Mauna Kea with the following amendments:

1. Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report - Ho'okikī Kānāwai, Kua'ā Kānāwai, Kai'okia Kānāwai, Kīho'īho'ī Kānāwai;
2. Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group's Report; and
3. Add language that would require the University of Hawai'i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

Mahalo for your thoughtful consideration.


Kalei Nu'uhiwa, PhD.

HB-2024

Submitted on: 2/17/2022 11:07:28 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Tory Kono	Individual	Support	No

Comments:

Aloha members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance,

My name is Tory Auli‘i Kono, a local resident of Hawaii, and I am writing to you in SUPPORT of HB2024. The proper stewardship of Mauna a Wākea has long been debated with numerous Native Hawaiian, environmental and community groups raising concerns over the decades.

Formal reviews have validated the community’s concerns. The Hawai‘i State Auditor's Office released reports in 1998, 2005, 2014, and 2017 that were critical of the University of Hawai‘i’s (UH) stewardship of Mauna a Wākea. Most recently, the Department of Land and Natural Resources’ “Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan” found that the while UH’s management of Mauna a Wakea had improved, it failed to timely approve administrative rules; failed to consult with the Native Hawaiian community on cultural resources issues; and failed to engage with the community, particularly the Native Hawaiian community, on education and outreach efforts.

HR33, HD1, aimed to address these longstanding issues by establishing a Mauna Kea Working Group (Working Group) to provide recommendations to develop a new governance and management structure for Mauna a Wākea.

As supporters of a healthy and protected Mauna a Wākea, we strongly urge you to pass HB2024 with the following amendments:

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Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group’s Report; and

Add language that would require the University of Hawai‘i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

In conclusion, the leadership of the House of Representatives declared a bold commitment to take steps towards economic, cultural, and environmental justice. Your support of HB2024 will

make good on your commitments to your constituents, and Hawai‘i’s precious natural and cultural resources.

Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group:

He lā hou kēia ma Mauna a Wākea.

A new day has indeed arrived on Mauna a Wākea.

Me ke aloha no Mauna a Wākea,

Sincerely,
Tory Auli‘i Kono

HB-2024

Submitted on: 2/17/2022 11:46:44 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Michael Hoenig	Individual	Oppose	No

Comments:

Aloha Chairs Tarnas, Nakashima and Luke,
Vice Chairs Branco, Matayoshi, Yamashita,
and members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

I am writing to you today to testify against HB2024.

I would like to thank the Maunakea working group for continuing the dialogue on how to manage the mountain. I read their draft report. I realize it isn't possible to please everyone and given the makeup of the working group, a lot of compromises were no doubt required. I was saddened to read, however, of the proposed removal of UH from any future Maunakea management. While UH's management of the mauna has been debated ad nauseam, I think they did an excellent job of something that is inherently difficult and complex - and I think I have spent enough days (and nights) on Maunakea to be able to state this with some authority. Not giving UH any future say at all would be a big loss, given they are the primary educational institution in our state. Astronomy on MK (including the TMT) would always have a connection with UH. So would biology (think Wekiu bug) or conservation...

Is UH's proposed exclusion from any future management of MK supposed to be a "punishment" or retribution for perceived past wrongs? It seems some folks definitely are gunning for them, which makes me sad, given I think they always acted in good faith.

Either way, the creation of a new governing entity will merely serve to delay the construction of TMT, as well as the renewal of the lease that expires in 2033. This may be some peoples' objective, but it should not be the State of Hawaii's. I therefore am of the opinion that this new governance proposal needs to be abandoned in favor of continuing the current management, under UH's proposed new, improved, plan. For this reason I ask you to reject this bill.

Mahalo for your time,
Michael Hoenig
Hilo (House District 1)

Less than a month ago, the master plan for the UH stewardship of Maunakea lands, *E Ō I Nā Leo*, was overwhelmingly approved by UH regents in a 10 to 1 vote. As written, the master plan documents an extremely thorough and balanced vision for the future of Maunakea stewardship. If implemented effectively, this plan should improve on every aspect that the mauna offers, from cultural interpretation, environmental sustainability, astronomical research, cross-disciplinary research, conservation, and educational opportunity. Those who crafted this plan clearly solicited a broad swath of input and listened carefully to all the voices that spoke to their experience with and their vision for Maunakea. Speaking from the perspective of an astronomer of 20 years, this plan, as written, will not only maintain the highly productive facilities on the mauna, but allows for a carefully controlled modest re-fitting of those structures on existing sites, those which are not to be decommissioned, in order to make them more impactful scientifically while still maintaining a limited presence on the mauna. It also allows for the development of another world class research facility on the currently existing site 13, whether that be TMT or another telescope, a crucial step towards answering the questions of 21st century astronomical research for which currently facilities are insufficient. These questions are at the very core of our search for our origins as a species, the origins of our planet, of our galaxy, and of our universe; a fundamentally human endeavor. This plan is crafted with love for the mauna, what it brings to all people, and looks to improve on the experience of respectfully communing with the mauna for all who chose to, irrespective of their profession, background, race, or beliefs.

The report from Maunakea Working Group, *He Lā Hou Kēia Ma Mauna a Wākea*, which is used as the basis for HR2024 and the proposal that a Maunakea stewardship authority take over sole stewardship of the mauna, was also carefully constructed, soliciting input from a variety of communities and voices. However, the proposed board of the stewardship authority lacks the inclusivity of the UH master plan by excluding any astronomy voices on the committee beyond those in an advisory capacity. While the UH master plan emphasizes a multi-disciplinary approach to stewardship of the mauna, the proposed board not only has no official representation from those from the astronomy community, but has little to no representation from those in the scientific community as a whole. Further, the proposal calls for all astronomy activity on the mauna above 9200 feet to be ceased. This would effectively end high-quality astronomical research on the mauna, which would not only be a devastating loss for the astronomical community, but a grievous loss for all of humanity, as Maunakea is the best site in the world to explore some of the most profound questions of our species.

Ceasing astronomical activity on the mauna means fatally injuring Hawai'i's leadership in a peaceful, clean, international endeavor. This action would also have the consequence of seriously curtailing the 100s of millions of dollars of economic impact that astronomy activities currently generate according to the recent report of the University of Hawai'i Economic Research Organization (UHERO). The impact to Hawai'i in both in terms of loss of reputation internationally and state-wide fiscal repercussions if astronomical activities were to cease on the mauna would be severe.

It is possible for all those who come to commune with the mauna in a spirit of exploration and aloha to coexist, and, over time, to learn from one another and to thrive together. The plan articulated in the Maunakea Working Group, and echoed in HR2024, is exclusionary and does not allow for this possibility. By contrast, the UH master plan, already adopted, provides fertile ground from which this synergy between cultures and communities may grow.

All testimony herein reflects my personal feelings and not the views of the Maunakea observatory for which I work.

Dr. Brian C. Lemaux, Observatory Scientific Staff

Māpuana de Silva, Kumu Hula
Hālau Mōhala ‘Ilima
1110 ‘A‘alapapa Drive
Kailua, Hi, 96734

Testimony by Māpuana de Silva
IN SUPPORT of HB2024 Relating to MAUNA A WĀKEA
Senate Committees on Water & Land,
Judiciary & Hawaiian Affairs, and
Finance
Saturday, February 19, 2022

Aloha kākou e Chairs Luke, Tarnas and Nakashima, Vice Chairs Yamashita, Branco, Matayoshi, and members of the Senate Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

Thank you for the opportunity to provide written testimony in **SUPPORT** of **HB2024**. There is no doubt that the issue of proper stewardship, care for, and protection of Mauna a Wākea has been overlooked by the University of Hawai‘i for decades. This needs to and must stop now. There is a much better plan for our sacred mauna. Listen to the descendants, listen to the cultural experts, listen to the lāhui and take action so that further desecration, misuse, and disregard for what is pono will end.

The importance and sacredness of Mauna a Wākea is well documented in our chants and stories as passed down through generations. These stories are the voice of our kūpuna and they contain the real history of our people. The chants and dances that I learned from my kumu hula and mentors and that I continue to teach to my students are testimony that cannot be ignored. If you haven’t read these stories, if you haven’t chanted these chants, if you haven’t learned these hula then you should be listening to those who have because these precious gems are the very things that make Hawai‘i unique. Please do not treat Mauna a Wākea like it is just a mountain. It is much more than that. We know it, do you?

I support the establishment of a Mauna A Wākea stewardship authority as defined in HB2024 as the sole authority for management of state-managed lands on Mauna A Wākea. The University of Hawai‘i(UH) has not only failed to protect Mauna A Wākea, it has our lāhui.

The UH has failed to effectively acknowledge and consult with the Native Hawaiian community on cultural resources management and on education and outreach efforts. The Hawai‘i State Auditor’s Office released reports in 1998, 2005, 2014 and 2017 which were critical of the management of the state-owned lands of Mauna A Wākea by UH. HR33, HD1, aimed to address these longstanding issues by establishing a Mauna Kea Working Group (Working Group) to provide recommendations to develop a new governance and management structure for Mauna a Wākea, as provided in HB 2024.

I strongly urge you to pass HB2024 with the following amendments:

1. Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report - Ho‘okikī Kānāwai, Kua‘ā Kānāwai, Kai‘okia Kānāwai, Kīho‘iho‘i Kānāwai;
2. Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group’s Report; and
3. Add language that would require the University of Hawai‘i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group:

He lā hou kēia ma Mauna a Wākea

A new day has indeed arrived on Mauna a Wākea.

Me ke aloha no Mauna a Wākea!

HB-2024

Submitted on: 2/18/2022 6:54:10 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Nicolas Pacheco	Individual	Oppose	No

Comments:

Aloha to Whom it May Concern.

I am an employee of Hawaii Forest and Trail and have been conducting tours to the summit of Maunakea with HFT since 2016. I would like to inform all agencies so they will know the positive role Hawaii Forest and Trail plays on the mountain. We provide safely guided tours into rare, fragile habitats, under very tightly controlled conditions. All while helping to reduce traffic and incidents on the mountain. Educating visitors about Hawaii's native culture and fragile ecosystems is also a big part of what we do as a company.

Also, taking people safely to the summit of Maunakea is my job, my employment, my livelihood. Having commercial operators restricted from being able to go to Maunakea summit directly impacts myself and my family's livelihood. As an employee of Hawaii Forest & Trail I depend on my job to support my family while trying to survive in this challenging and increasingly costly state to live in. Mahalo for your consideration.

Testimony submitted by Keali'i Reichel in support of HB2024 Relating to Mauna A Wākea
Senate Committees on Water & Land,
Judiciary & Hawaiian Affairs, and
Finance
Saturday, February 19, 2022

Aloha kākou - greetings to all of us e Chairs Luke, Tarnas and Nakashima, Vice Chairs Yamashita, Branco, Matayoshi, and members of the Senate Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance.

My name is Keali'i Reichel and I am testifying in support of HB 2024 Relating to Mauna Kea, with suggested amendments further below.

I am Kumu Hula of Hālau Ke'alaokamaile, Chanter, Weaver and singer who is also involved with the ceremonial aspects Re-forestation as well as Iwi Kupuna reinterment for the district of Kahikinui.

For us, Mauna Kea stands as a beacon of cultural, religious and spiritual significance. The Mauna feeds us, gives us life and protects us internally and externally. This bill provides opportunity to ensure proper land-management based on traditional intelligence, ethics and values passed down through mo'olelo/chants that will strengthen our relationship to Mauna Kea.

I support the establishment of a Mauna A Wākea stewardship authority as defined in HB2024 as the sole authority for management of State-managed lands on Mauna Kea with the following amendments:

A. Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report - Ho'okikī Kānāwai, Kua'ā Kānāwai, Kai'okia Kānāwai, Kīho'ihō'i Kānāwai;

B. Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group's Report; and

C. Add language that would require the University of Hawai'i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

Mahalo a nui for your time and consideration of the above.

He lā hou kēia ma Mauna a Wākea.
A new day has indeed arrived on Mauna a Wākea.

Ola kākou,

Keali'i Reichel

Signature

HB-2024

Submitted on: 2/18/2022 7:48:23 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Chris K.	Individual	Comments	No

Comments:

While I appreciate the intent of the bill, I think there are still a lot of questions about the implementation and funding for this new management system. Are there any estimates to how much an entity like this will cost per year? Will the special fund be able to fund this agency? Or will it need permanent general funds? If this bill doesn't pass this year, maybe someone can conduct a study or business analysis on how much something like this would cost. This information would be important to know in determining the conditions of any future leases if that will contribute to the responsibilities of the new entity. Mahalo.

Michael J. Konowicz
68-1845 Waikoloa Rd, Ste 106-228
Waikoloa HI 96738

February 16, 2022

To: Committee on Water & Land, Committee on Judiciary & Hawaiian Affairs, & Committee on Finance

Re: AGAINST HB 2024 – Relating to Mauna Kea

I am extremely against HB 2024 as it relates to Mauna Kea; this House Bill attempts to create more problems than solutions for the people of Hawaii. I am writing this testimony as an individual and as a full-time resident of Waikoloa on the Big Island of Hawaii.

The University of Hawaii's (UH) recent management of Mauna Kea has been excellent, but the state has fallen short on its responsibilities to enforce the law and to provide safe access to Mauna Kea Access Road to those wishing to construct the Thirty Meter Telescope project, to explore the natural beauty of the Summit, to see the marvels of modern engineering with the existing astronomical equipment there, and for those pursuing a natural or spiritual experience thousands of feet above sea level.

I believe this new governance model proposal should be abandoned in favor of continuing UH's management under UH's new proposed plan and structure. Please do not pass this bill out of your committees.

HB 2024 is flawed on many fronts.

First, it disregards the huge benefits the astronomy community provides to all residents of Hawaii and fails to give them seats on the board of the new proposed Mauna Kea management entity. Beyond billions of dollars injected into our communities, the astronomy community provides tremendous opportunities and community service for everyone on the Big Island, not to mention a large volume of well-paying jobs. It is absurd to not include them in any Mauna Kea management entity.

Second, Section #6 in its current form establishes a plan for eliminating astronomy on Mauna Kea. Considering how beneficial this industry is to our people, our environment, and our economy, it is absurd to give any management entity such direction.

Third, it is wrong to consider elevations above 6,500 feet elevation as a "Coastal Land" to be managed under HRS 205A, which this legislation wishes to pursue. Land far from the coast, and clearly high above sea level, shouldn't be granted such a zoning change.

Fourth, Mauna Kea is not "sacred" to all Native Hawaiians; in fact, many Native Hawaiians welcome and support the astronomy industry. More than 100 years before becoming a state, Hawaiian leadership abolished the kapu religion and our modern-day constitution prohibits the government from establishing any religion. You are doing a disservice to native Hawaiians and all residents of Hawaii to invent and establish religious themes and excuses for the sake of this flawed legislation.

Please do not allow HB 2024 to continue as is.

Signed,


Michael J. Konowicz

HB-2024

Submitted on: 2/18/2022 8:05:40 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Lehua Dircks Ah Sam	Individual	Support	No

Comments:

My 'ohana and I support this bill. We strongly feel that the University of Hawai'i has failed as leaders in stewardship on Mauna Kea. This bill is an opportunity for the stewardship of the Mauna to sit with the community and not with any single government agency who does not represent the interest of the beneficiaries of the ceded land trust that makes up the summit of our sacred Mauna Kea.

HB-2024

Submitted on: 2/18/2022 8:27:40 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Tom Wilson	Individual	Support	No

Comments:

Aloha,

My name is Tom Wilson. I have been a resident of Hilo for 33 years. I support HB 2024, Relating to Mauna Kea and would like to see the new authority replace the university to take care of Mauna Kea. There needs to be a change in the management of the mountain and a halt to the construction of any more telescopes on this very sacred site. Please pass this bill out of your committees.

Mahalo!

HB-2024

Submitted on: 2/18/2022 8:54:55 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
EC	Individual	Support	No

Comments:

Aloha members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance,

Thank you for the opportunity to provide written testimony in SUPPORT of HB2024. The proper stewardship of Mauna a Wākea has long been debated with numerous Native Hawaiian, environmental and community groups raising concerns over the decades.

Formal reviews have validated the community's concerns. The Hawai'i State Auditor's Office released reports in 1998, 2005, 2014, and 2017 that were critical of the University of Hawai'i's (UH) stewardship of Mauna a Wākea. Most recently, the Department of Land and Natural Resources' "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan" found that the while UH's management of Mauna a Wakea had improved, it failed to timely approve administrative rules; failed to consult with the Native Hawaiian community on cultural resources issues; and failed to engage with the community, particularly the Native Hawaiian community, on education and outreach efforts.

HR33, HD1, aimed to address these longstanding issues by establishing a Mauna Kea Working Group (Working Group) to provide recommendations to develop a new governance and management structure for Mauna a Wākea.

As supporters of a healthy and protected Mauna a Wākea, we strongly urge you to pass HB2024 with the following amendments:

- Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report - Ho‘okikī Kānāwai, Kua‘ā Kānāwai, Kai‘okia Kānāwai, Kīho‘iho‘i Kānāwai;
- Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group’s Report; and
- Add language that would require the University of Hawai‘i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

In conclusion, the leadership of the House of Representatives declared a bold commitment to take steps towards economic, cultural, and environmental justice. Your support of HB2024 will make good on your commitments to your constituents, and Hawai‘i’s precious natural and cultural resources

Me ke aloha,

EC

HB-2024

Submitted on: 2/18/2022 8:57:15 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Donna Luther	Individual	Oppose	No

Comments:

Aloha and mahalo for allowing me to testify why I oppose prohibiting commercial tours to the summit of Mauna Kea. Since Mauna Kea holds the title of “tallest mountain in the world” it will always be a bucket list destination and one of the top things to do on the Big Island of Hawaii. Most are simply rewarded by the great achievement of summiting to the highest peak in Hawaii, but also getting to see an amazing sunrise or sunset above the clouds with some of the most amazing views on the island can be a sacred experience to many. To deny that to non natives would be unfair but considering how difficult it can be to ascend to 14,000 feet or drive in unfamiliar territory, being in a professionally guided tour is much safer and less impact to the natural environment than multiple individual vehicles. Guests and visitors can be well informed by their local resident tour guides about everything from health and safety to cultural significances to respect for the land, etc. No matter where you live or what nation you come from, humans should continue to be good stewards of the land, helping to take care of this planet we all call home.

HB-2024

Submitted on: 2/18/2022 9:18:58 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kuupuamaeole Mossman	Individual	Support	No

Comments:

Aloha members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance,

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Formal reviews have validated the community's concerns. The Hawai'i State Auditor's Office released reports in 1998, 2005, 2014, and 2017 that were critical of the University of Hawai'i's (UH) stewardship of Mauna a Wākea. Most recently, the Department of Land and Natural Resources' "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan" found that the while UH's management of Mauna a Wakea had improved, it failed to timely approve administrative rules; failed to consult with the Native Hawaiian community on cultural resources issues; and failed to engage with the community, particularly the Native Hawaiian community, on education and outreach efforts.

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- Add language that would require the University of Hawai'i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

In conclusion, the leadership of the House of Representatives declared a bold commitment to take steps towards economic, cultural, and environmental justice. Your support of HB2024 will make good on your commitments to your constituents, and Hawai'i's precious natural and cultural resources.

Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group:

He lā hou kēia ma Mauna a Wākea.
A new day has indeed arrived on Mauna a Wākea.

Me ke aloha no Mauna a Wākea,

Ku'upuamae'ole Mossman

HB-2024

Submitted on: 2/18/2022 9:38:20 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Ernella Kiyuna	Individual	Support	No

Comments:

Aloha members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance,

Thank you for the opportunity to provide written testimony in SUPPORT of HB2024. The proper stewardship of Mauna a Wākea has long been debated with numerous Native Hawaiian, environmental and community groups raising concerns over the decades.

Formal reviews have validated the community's concerns. The Hawai'i State Auditor's Office released reports in 1998, 2005, 2014, and 2017 that were critical of the University of Hawai'i's (UH) stewardship of Mauna a Wākea. Most recently, the Department of Land and Natural Resources' "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan" found that the while UH's management of Mauna a Wakea had improved, it failed to timely approve administrative rules; failed to consult with the Native Hawaiian community on cultural resources issues; and failed to engage with the community, particularly the Native Hawaiian community, on education and outreach efforts.

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- Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group's Report; and
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Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group:

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A new day has indeed arrived on Mauna a Wākea.

Me ke aloha no Mauna a Wākea,

Ernella Kiyuna

HB-2024

Submitted on: 2/18/2022 9:41:42 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Huihui Kanahele-Mossman	Individual	Support	No

Comments:

Aloha kākou,

I fully support House Bill 2024 and appeal to lawmakers to successfully pass this legislation. The conflict 2 years ago has brought kupuna to the slopes of Mauna Kea, endangering their health, and forcing them to take these matters to where it was supposed to go, to the table of those who take the summit and the slopes as a non-negotiable sacred space. Under the University of Hawaii, land, and in this case our highest summit, is research, period. As a research University this is the purpose of the institution thereby understandably all university land assets are experimental samples, and justified to both the university and the general public as solely an asset for scientific application.

For the people, the birds, the insects that are native to this place, that by all right should be honored for their indigeneity, Mauna a Wakea is sacred. Sacred, to this group means that without this mountain life will never be the same, without the natural terrain of the summit and the slope, homes will not exist, and by covering the summit with monstrous man made structures the personal value of aloha is corrupted.

Therefore, for the continuance of Uli (health and well being) for the latter group of native residents the stewardship of the summit of Mauna Kea must be taken out of the hands of a purely research based entity to the care of 'aina based inhabitants.

Me ka 'o ia 'i'o

Huihui Kanahele-Mossman, PhD

HB-2024

Submitted on: 2/18/2022 9:51:51 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Debora Pelliccia	Individual	Oppose	No

Comments:

I oppose this bill! It will eradicate Astronomy from this Island.

HB-2024

Submitted on: 2/18/2022 10:23:18 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Meleana Adams	Individual	Support	No

Comments:

Aloha mai,

‘O Meleanaonālani Adams ko‘u inoa. No Ko‘olaupoko, O‘ahu mai au. He kumu au. He māmā au. He kanaka ‘ōiwi au. My name is Meleanaonālani Adams and I am from Ko‘olaupoko, O‘ahu. I am a teacher, a mom, and a native Hawaiian. I support HB2024. It is time we keep Hawaiian lands in Hawaiian hands. I am in favor of keeping Hawaiian natives in charge of the proper stewardship of Mauna Kea. We have put too much trust in the state of Hawaii that our Hawai‘i has been desecrated too much for too long. I pray for a day that my son gets to live off of his ‘āina and that the generations to come will have clean water and an abundance of resources from the ‘āina. If we continue to allow the state of Hawaii to make these important choices, we will continue to see Hawaiian lands desecrated.

HB-2024

Submitted on: 2/18/2022 10:36:28 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Nicolas Lee	Individual	Support	No

Comments:

Aloha members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance.

Thank you for the opportunity to provide written testimony in SUPPORT of HB2024. The proper stewardship of Mauna a Wākea has long been debated with numerous Native Hawaiian, environmental and community groups raising concerns over the decades.

Formal reviews have validated the community’s concerns. The Hawai‘i State Auditor's Office released reports in 1998, 2005, 2014, and 2017 that were critical of the University of Hawai‘i’s (UH) stewardship of Mauna a Wākea. Most recently, the Department of Land and Natural Resources’ “Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan” found that the while UH’s management of Mauna a Wakea had improved, it failed to timely approve administrative rules; failed to consult with the Native Hawaiian community on cultural resources issues; and failed to engage with the community, particularly the Native Hawaiian community, on education and outreach efforts.

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As supporters of a healthy and protected Mauna a Wākea, we strongly urge you to pass HB2024 with the following amendments:

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- Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group’s Report; and**
- Add language that would require the University of Hawai‘i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.**

In conclusion, the leadership of the House of Representatives declared a bold commitment to take steps towards economic, cultural, and environmental justice. Your support of HB2024 will make good on your commitments to your constituents, and Hawai‘i’s precious natural and cultural resources.

Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group:

He lā hou kēia ma Mauna a Wākea.

A new day has indeed arrived on Mauna a Wākea.

Me ke aloha no Mauna a Wākea,

Nicolas Lee

HB-2024

Submitted on: 2/18/2022 11:52:34 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Marlene Kamuela Purdy	Individual	Support	No

Comments:

Aloha! I, Marlene Kamuela Purdy (Kupuna) is in support of HB2024. I have had the opportunity to experience first hand my ancestors spiritual pull to Maunakea when my Purdy-Lindsey (30+) Ohana from Molokai, Maui, & Hawaii Island offered our Hookupu about a month after the initial call to gather as Ki`a`i of our sacred Maunakea. Our Na Kupuna, were placed in front, as our next generation stood by our side chanting our geneology to Maunakea. I felt an overwhelming auwe feeling, and started to uncontrollably cry in front of hundreds. I couldn't contain myself, no matter how much I tried, public showing of my emotions are not in my charactor. Growing up, I heard legacy stories; upon birth our ancestor's Piko was placed in Lake Waiau, Maunakea. In 2017 & 2019 we placed 2 of our babies Piko in Lake Waiau, a sacred tradition of our Ohana. Majestic & Sacred Maunakea is for her people and their cultural practices...NOT for telescopes. Mahalo!

HB-2024

Submitted on: 2/18/2022 11:54:18 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Gordon B. Lindsey	Individual	Oppose	No

Comments:

I am in opposition and oppose HB2024, for varrious reasons

Richard E Griffiths
12-7216 Mauka Nui St
Pahoa
HI 96778

February 18 2022

Rep. Mark M. Nakashima, Chair
House of Representatives
State of Hawai'i
State Capitol
Honolulu, HI 96813

Subject: Maunakea Working Group draft report comments

Dear Rep. Nakashima and members of the Maunakea Working Group,

As a constituent of the state and county of Hawai'i, I am writing to express my strong objections regarding the draft report of the so-called Maunakea Working Group.

With the exception of juvenile school-student reports, I have never read such an ill-conceived and badly worded report, which pretends to be about the management of state lands on MaunaKea but contains no plan and no management structure. The document seems to be mainly concerned about religion rather than culture or science or management of such a precious resource. As such, the document clearly violates the separation of church and state. In contrast, the report prepared on behalf of the University of Hawaii is a carefully conceived, highly respectful and fully appropriate report for the continuation of the University's management of MaunaKea, especially the Astronomy Precinct.

The MaunaKea working group was apparently given a somewhat challenging task - finding an alternative governing model for MaunaKea that satisfies the TMT protesters and the rest of the State of Hawaii. The reality is that UH's management of Mauna Kea has been excellent and the only management failure has been the State's failure to enforce the law and arrest protesters unlawfully blockading the MaunaKea Access Road to prevent the construction of the Thirty Meter Telescope, the most advanced telescope in the world. The creation of any new governing entity is completely unnecessary and inappropriate and would merely serve to delay TMT and the renewal of the lease that governs the telescopes. This is, of course, the protesters' objective, but it should not be the State of Hawaii's objective, and it is certainly not the objective of the people of Hawai'i. This new governance model 'proposal' should be completely abandoned in favor of continuing UH's management under UH's new proposed plan and structure.

However, to the extent that this sidelining effort continues on, I have many major objections, of which the following are representative:

1. The report currently proposes to exclude the astronomy community from having a vote in management of Mauna Kea. The telescopes on Mauna Kea and the University of Hawaii maintain the access road and provide hundreds of millions of dollars in investment and jobs to our economy. At a minimum the astronomy community deserves a vote on the management structure of Mauna Kea, either through the Mauna Kea Observatories group or the University of Hawaii, if not both. Given the unchallenged success of the Observatories over the past 65 years, the astronomy and science communities should have at least a half of the votes if not a majority.

2. The report surreptitiously includes, with very little explanation, that Mauna Kea, including the summit, will be governed under "HRS 183" and "HRS 205A". HRS 183 covers "forest reserves" and HRS 205A is for "Coastal Lands". There is no explanation for why the summit of Mauna Kea, which has no trees and is very far from the coastline, would be governed under these statutes. The most probable reason is that the protesters know these are much more restrictive zoning classifications that could be used to completely exclude astronomy from the summit. This is clearly unacceptable to the astronomy community in Hawaii, on the mainland of the USA and around the world. No zoning changes should be made that would endanger the scientific pursuit of astronomy on Mauna Kea.

3. Any and all implication that Mauna Kea is "sacred" to Native Hawaiians is inappropriate and should be removed from the report. Mauna Kea is not sacred as a Native Hawaiian matter. While some people might maintain beliefs in the kapu religion, and as part of their belief think Mauna Kea is sacred, their beliefs are not authoritative as a Native Hawaiian matter. The ali`i abolished the kapu religion over 200 years ago and the State constitution prohibits the government from establishing a religion. One could argue, with far greater justification, that Mauna Kea is sacred to the science of astronomy.

4. Further, any mention of "Mauna a Wakea" is entirely inappropriate. Mauna Kea is not named 'Mauna a Wakea' and claims to the contrary are not supported by fact. This tax-payer-hosted document should not continue to push this false narrative, unless we live in a world of 'alternative facts'. Once again, I would reiterate that there is a separation of church and state in the United States of America. And anyway, there are certainly no gods on MaunaKea, which is a volcano that rose up from the Pacific a million years ago.

5. The report fails to recognize the significant efforts the University has already made to address the concerns regarding *"education and outreach aimed at restoring trust between the University of Hawai'i and the Native Hawaiian community"*. As such, the report does not effectively describe or propose how a new governing entity will be able to fulfill / achieve these same responsibilities that the University—despite its many successful engagement programs—is considered unable to achieve.

6. 'Imiloa is a University entity that was established exactly for this purpose: "dedicated to serving local and visitor communities through quality education programs strengthened by the core academic offerings of UH Hilo". UH Hilo and Imiloa programs and services include, but are not limited to: PreK-12 grade programs, after school programs, day camps, Hawaiian language and culture-based enrichment programs that focus on local science research, cultural advancement and environmental stewardship. Imiloa was recently cited in the National Academy of Sciences' Decadal Review of Astronomy and Astrophysics as an outstanding example of the efforts to unite astronomy with local culture and practices.

'Imiloa brings together members of the Hawaiian and astronomy communities to share a common vision for the future, bringing information about the cultural and natural history of Maunakea to students, teachers, our local residents, and visitors from around the world. 'Imiloa has strengthened links to early Polynesian navigation history and knowledge of the night skies, as well as today's renaissance of Hawaiian culture and wayfinding with parallel growth of astronomy and scientific developments on Hawaii Island."

7. At UH Hilo and Mānoa, the University astronomy community is one of the most active in regards to community outreach (e.g. AstroDay, Onizuka Day, Lacy Veach Day, UAC events, Open House events, significant astronomical events - solar eclipse, etc.)

8. There were two sub-groups (Native Hawaiian Culture and Astronomy subgroups) created to address the tasks of the MWG, namely to address the concern: *“The lack of genuine consultation with the Native Hawaiian community”*

Despite the clearly stated need for increased consultation and dialogue between the astronomical and Native Hawaiian communities, the MWG itself was unable to facilitate such dialogues during their meetings, and makes it unclear whether the working group framework would be able to facilitate and enable such critical consultation between these two communities. The report contains no plan for doing this and the MWG members seem completely disinterested in doing so. Furthermore, the working group itself was unable to reach consensus regarding management of astronomical facilities, and it is completely unclear how the proposed list of stakeholders will be able to come to a consensus on management policies nor how a potential impasse would be resolved. The report contains no plan and no management structure.

■ .

9. The report alludes to restoring Maunakea to its ‘natural state’, but does not define what ‘natural state’ means. This leaves unanswered many questions about the ability to continue scientific (be it astronomical, conservation or other) endeavors, cultural practices and/or recreation activities that are currently enabled by the road and the access to higher elevation and summit regions that the road affords.

10. With its lack of details and risk analysis, the report creates a problematic climate of uncertainty related to the near-future scientific and educational activities linked to Maunakea. In particular: within the astronomy community around the world, ground-based observatories remain fundamental to that science. The current ensemble of Maunakea Observatories is the most productive in the world, not only adding prestige to the State of Hawaii, but also providing a significant economic and educational impact. This impact is not acknowledged in the report; on the contrary, the goal seems to be the eventual removal of all facilities. The loss of world-class astronomical facilities on Maunakea would be a deep loss for the State of Hawaii, and for all of astronomy in the USA and worldwide. There have been so many discoveries using the facilities on Maunakea that it is difficult to imagine the state of astronomy today if telescopes had not been built on Maunakea.

11. Research activities on Maunakea provide numerous STEM educational activities, for hundreds of students across the State of Hawaii. At UH Hilo alone for instance, opportunities for students arise in fields like evolutive biology, ornithology, volcanology, astronomy, engineering, geology, robotic space exploration, botany, hydrology, environmental science, ecology, climate change, etc. As mentioned above, the uncertainty surrounding the future access to the mauna and the potential loss of the observatories as described by the report could have a very negative impact on these opportunities, more so if local or federal research funding related to such STEM are affected due to an unsound management structure.

Mahalo nui loa,

Sincerely,

Richard E. Griffiths

Richard E. Griffiths

HB-2024

Submitted on: 2/18/2022 12:31:25 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kalei Kailikini	Individual	Support	No

Comments:

Aloha, my name is Kalei Kailikini, reside Hilo, Hawaii. I support HB2024. Management of our sacred Mauna Kea belongs to kanaka maoli, Hawaiian nationals who revere Mauna Kea as part of our ancestral lineage, the essence of our faith in God. All who believe in God respect, protect, and honor His creations. Mauna Kea and Mauna Loa are two sacred mountains that protect the people of Hawaii island from storms and provides unlimited source of water, it's scientific. These resources are always targets for the rich and powerful. They want to possess, control and sell. We are a people (kanaka maoli, Hawaiian nationals) who want to protect, respect, & share. You, the elected, supposedly representing the people please don't give the advantage to the rich and powerful. Water is for everyone, don't let the rich bottle it from our Maunakea and sell to us. Focus on Mauna Kea's resources that attract the rich and powerful. Don't help them!

HB-2024

Submitted on: 2/18/2022 12:50:00 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Thayne Currie	Individual	Oppose	Yes

Comments:

I have reviewed the Mauna Kea Management bill HB 2024. HB 2024 is a severely and hopelessly flawed bill that would result in far poorer management of Mauna Kea, not better management and will get struck down by the courts for being unconstitutional.

The following is an incomplete list of fatal flaws with this bill. I strongly urge these committees to defer HB 2024.

--

1. The bill blatantly contradicts its own mandate by not giving the astronomy community seats on the board. Astronomy must not simply be represented but well represented on any board.

Astronomy on Maunakea is immensely valuable to the state. Collectively, it one of the largest employers on the Big Island, responsible for well over 150 million dollars in spending per year. Maunakea is the best observatory site in the northern hemisphere, possibly the best accessible site in the world. It has put Hawai'i at the forefront of advancing humanity's knowledge about our place in the universe: the 2011 and 2020 Nobel Prizes in Physics drew in part from Maunakea astronomy. Maintenance of the road to the summit and thus access to cultural sites by car is supported by astronomy.

Astronomy is critically affected by the decisions of any management entity on Maunakea. For instance, today the 2000 Master Plan and 2009 Comprehensive Management Plan guide decisions on the location and type of observatories, requirements for the maintenance of observatories, commissioning and decommissioning of observatories, etc.

The purpose of the working group whose discussions led to this bill was to recommend a new management structure that ``collaboratively engages with all stakeholders''. Astronomy represents a blindingly obvious stakeholder. It is inappropriate for astronomy – either directly or through UH -- to not have strong, well represented voices (emph. on the plural) in management of Maunakea, not just simply an advisory group. Period.

Furthermore, the language contained in this bill as it describes astronomy is incendiary and inaccurate. Astronomy is described as an activity that must be “controlled”, as if it is some sort of weed, instead of the point of pride that it is. This adversarial language is offensive to the hundreds of hardworking local observatory workers, including many Native Hawaiians who see no conflict between their jobs and their personal beliefs. It is inappropriate for the Hawai`i State Legislature to `splain their identities to them.

2. The bill is reckless, as it puts astronomy in Hawai`i at serious risk.

The current master lease for astronomy on Maunakea expires in 2033. UH is in the process of seeking lease renewal beyond 2033 and this must be done soon. It is unclear how the state can put in place a new management structure in place of UH which will then turn around and timely re-authorize astronomy after 2033.

The only possible way I could support a wholly new management structure at this point is if the legislature automatically extends the current lease(s) for observatories for at least another ~30 years past 2033 (~2063). Otherwise, a new structure should be considered a no-go at this time.

3. The Bill inappropriately expands jurisdiction.

The bill expands jurisdiction – by a factor of 10 in area -- to include the whole mountain from the 6,500 ft elevation at the Saddle Road Junction to the summit. The zoning for some of the parcels covered can wildly differ: e.g. ‘conservation district, restricted subzone’ or as agricultural lands near the Mauna Kea Access Road. Currently, other entities – Dept of Hawaiian Homelands, DLNR – own these lands.

The expansion makes no logical sense as a solution to problems supposedly restricted just to the upper 11,000 acres of Maunakea. The new management structure would monitor land use over a vastly large scale with different previous managers and with wildly varying zoning designations than before. Thus, this expansion makes proper management of Maunakea vastly more challenging than before. It is a disaster in the making.

4. This bill is blatantly unconstitutional and WILL get struck down by the courts.

The bill establishes representation of the stewardship authority based on race, requiring that the majority of non-ex-officio members must be Hawaiian. Whether or not this is a good idea in the abstract, it is a blatant 14th amendment violation. US Supreme Court has long recognized that that race-based decision making on public lands is unconstitutional (e.g. Rice v Cayetano 2000); the Hawai`i State Supreme Court in Arakaki v State of Hawai`i recognized that membership in organizations with decision-making power based on race is likewise unacceptable. Arguably the bill is unconstitutional for another reason by establishing a religious test for some membership slots.

What will the State do once this management structure is struck down by the courts for being unconstitutional? Revert to the old management structure? Have no managing authority on Maunakea?

5. UH should retain at least co-management of Maunakea

The entire premise of a new management structure is flawed. The working group's creation was supposedly driven by the Ku'iwalu Report on UH's management of the upper 11,000 acres of Maunakea. In no uncertain terms, the Ku'iwalu Report lauds UH's management of natural resources on Maunakea, stating that Maunakea is "some of the best managed land in the entire state". Thus, there is no justification for removing a good manager of state lands.

The Ku'walu Report's main criticism of UH was its lack of community outreach and engagement with the Hawaiian community. That is a fair criticism. It can be addressed by giving representatives of Hawaiian community organizations and cultural practitioners shared decision making power in a modified version of the current management structure. Addressing this issue does not necessitate an entirely new structure, certainly not one that cuts UH out entirely and puts astronomy itself at risk.

HB-2024

Submitted on: 2/18/2022 1:23:28 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Sierra Chinn-Liu	Individual	Support	No

Comments:

Aloha members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance,

Thank you for the opportunity to provide written testimony in SUPPORT of HB2024.

I support the bill because I understand the bill as another step to implement proper stewardship of Mauna Kea and feedback from appropriate groups that have raised concerns. I believe that all bodies of government not only should, but are called upon to consult relevant experts and heed the concerns of communities most affected by their decision making. The amendments below, in my view, help accomplish exactly that, which is why I am submitting this testimony urging the Committees to adopt same:

- Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report - Ho‘okikī Kānāwai, Kua‘ā Kānāwai, Kai‘okia Kānāwai, Kīho‘iho‘i Kānāwai;
- Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group’s Report; and
- Add language that would require the University of Hawai‘i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

/s/

HB-2024

Submitted on: 2/18/2022 2:11:56 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jennifer Ramacher	Individual	Oppose	No

Comments:

I am an employee of a company that has a permit to access the summit of Maunakea, if HB2024 is passed, this will greatly impact the county of Hawaii in many ways. First the number of tour companies that will be forced to reduce their workforce or close their company entirely. Not to mention the trickle down work that these tour companies provide to other locals businesses; caterers, auto repair companies, advertising, resellers, tire companies, van and bus companies that sell them vehicles, hotels and many others. All of these businesses will also be forced to layoff employees.

I am worried about the financial impact to myself and my friends that rely on the ability to access Maunakea as their source of income and how we will be able to provide for our families. By enacting this law you will force many people to have to make the choice to leave the island in order to provide for their family.

The state of Hawaii is still trying to recover from COVID; the company that I work for was forced to lay off all employees in 2020 due to COVID-19. We have only been able to bring back about half of our staffing and to institute this new law would force our owners to reduce our staff again by about 40%. To some of you that may not mean anything and it is just a number, but when you multiply that by the 7 tour operators that have permits to access the mauna and the other small businesses that they use while providing this tour service to our visitor industry, this will impact thousands of people and their families on the Island of Hawaii.

HB-2024

Submitted on: 2/18/2022 2:28:28 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Amber Solmonson	Individual	Oppose	No

Comments:

I believe House Bill 2024 will do more harm than good, particularly section 11, which removes commercial activity. The commercial operators on Mauna Kea educate on the rare and fragile habitats of the mauna. They are spokespeople for astronomy, for the delicate ecosystems and native habitat. Commercial activity is already tightly regulated and monitored and gives tourists a way to reach the peak while being educated and protecting Mauna Kea's delicate environment.

Our local communities will lose more than these educators and protectors, we will lose jobs. Not allowing commercial activities on Mauna Kea will trickle down to the caterers, suppliers, mechanics and many other support businesses run by local residents, eventually reaching a large percentage of our residents. In a time when we have record high unemployment rates, removing more jobs from our local families will be devastating.

1288 Kapiolani Blvd, Apt 1905
Honolulu, Hawai'i 96814

Rep. David A. Tarnas, Chair
Rep. Patrick Pihana Branco, Vice Chair
Members, Committee on Water & Land

Rep Mark M. Nakashima, Chair
Rep. Scot Z. Matayashi, Vice Chair
Members, Committee on Judiciary & Hawaiian Affairs

Rep. Sylvia Luke, Chair
Members, Committee on Finance

Subject: Testimony in Support of HB2024, Hearing Feb 19, 2022, 9:00 a.m., Conf Rm 430

Aloha members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance

Thank you for the opportunity to provide written testimony in **SUPPORT** of **HB2024 with proposed amendments**. The proper stewardship of Mauna a Wākea has long been debated with numerous Native Hawaiian, environmental and community groups raising concerns over the decades. We appreciate HR33, HD1 that established the Mauna Kea Working Group to provide recommendations to develop a new governance and management structure for Mauna a Wakea.

After reviewing HB 2024, please consider the following proposed amendments:

- Add the Association of Hawaiian Civic Clubs, Moku O Keawe (Hawai'i Council) to the following section: **§ -3 Nomination process; nominating committee; office of Hawaiian affairs:** "In developing the list of nominees, the office of Hawaiian affairs shall seek input from the Native Hawaiian community and work in coordination with the Edith Kanakaole Foundation, ~~and~~ I Ola Haloa Hawaiian studies program at Hawaii community college, the Association of Hawaiian Civic Clubs, Moku O Keawe (Hawai'i Council), and using the existing selection process for island burial council candidates as a model. The office of Hawaiian affairs, in coordination with the Edith Kanakaole Foundation, ~~and~~ I Ola Haloa Hawaiian studies program at Hawaii community college, and the Association of Hawaiian Civic Clubs, Moku O Keawe (Hawai'i Council) shall submit at least two names for each of its respective seats on the authority to the governor for consideration. All nominees submitted to the governor for selection shall be made public at the time of submission."

Rationale: Founded by Prince Kūhiō in 1918, the Hawaiian Civic Club movement is the oldest Native Hawaiian community-based advocacy movement. The Association of Hawaiian Civic Clubs is a not-for-profit organization that is a confederation of individual and autonomous Hawaiian Civic Clubs located across Hawai'i and across the continental United States. Clubs are organized into five councils: Moku o Keawe (Hawai'i Council), Nā Hono A'o Pi'ilani (Maui Council), Ke One o Kākuhihewa (O'ahu Council), Moku o Manokalanipō (Kaua'i Council), and Nā Lei Makalapua (Mainland Council). They are governed by a 18-member volunteer Board of Directors and advocates for improved welfare of Native Hawaiians in culture, health, economic development, education, social welfare, and nationhood, and perpetuates and preserves language, history, music, dance and other Native Hawaiian cultural traditions.

The Association of Hawaiian Civic Clubs, Moku O Keawe (Hawai'i Council), in particular, has advocated for improved management of Mauna Kea for approximately 25 years.. As early as 1998, the AHCC adopted resolution 98-16, Urging the Protection and Preservation of the Cultural, Religious, and Environmental Resources of Mauna Kea; In 1999, Reinforcing the Protection and Preservation of the Cultural, Spiritual and Environmental Resources of Mauna Kea; in 2008, Urging the Legislature of the State of Hawaii, to authorize the Office of Mauna Kea Management, an Entity of the University of Hawaii, Hilo, to promulgate administrative rules and/or regulations for the proper use of the lands leased to the University of Hawaii on Maunakea Mountain; to as recent as 2019, when it adopted resolutions Honoring and Recognizing the Paepae Kūpuna and Kia'i Mauna Kea for their Stance to Protect Mauna Kea and all 'āina of Significance to Native Hawaiians from Desecration by Asserting Their Constitutionally Protected Native Hawaiian Rights and Their Internationally Recognized Indigenous Rights as Provided by Mechanisms such as the United Nations Declaration on the Rights Of Indigenous Peoples; Opposing the University of Hawai'i's Application for a Lease Extension, Lease Renewal or New lease for the Summit of Mauna Kea; and supporting Dept of Hawaiian Home Lands Beneficiaries in and Affirming Their Kuleana to have a Voice in Coming to a Resolution on Compensation for Unauthorized Use of the Mauna Kea Access Road and Other DHHL Parcels in the Surrounding Areas. Many other resolutions were adopted and sent to the Hawaii State Legislature.

- Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report Ho'okikī Kānāwai, Kua'ā Kānāwai, Kai'okia Kānāwai, Kīho'iho'i Kānāwai;
- Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group's Report; and
- Add language that would require the University of Hawai'i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

Mahalo for the opportunity to testify. Please pass HB2024 with the amendments recommended.

Me kealoha pumehana

Leimomi Khan

HB-2024

Submitted on: 2/18/2022 3:18:07 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Paul Brewbaker, Ph.D.	Individual	Oppose	No

Comments:

Testimony to the Hawaii State House Committees on Water & Land and on Judiciary and Hawaiian Affairs, and on Finance.

by Paul H. Brewbaker, Ph.D., CBE, Kailua, Oahu, Hawaii

Re: HB 2024 implementing some recommendations of the Mauna Kea Working Group

Governance of Mauna Kea's summit under existing University of Hawaii oversight in support of telescopes and astronomical facilities in coordination with the Department of Land and Natural Resources and other state agencies should continue without changes. Science-based industry on Mauna Kea's summit is at least one-half century old and contributes significantly to the Big Island economy and to human understanding of the origins of the universe. It is one of Hawaii's greatest contributions to humanity of the modern era. Such scientific understanding neither negates anybody's religious beliefs, nor their right to believe what they believe, nor their right to express those beliefs without impairing the safety or livelihoods of other individuals without regard to genetic origin. Exploration of the space-time continuum back to the moment after the Big Bang is entirely consistent with and honors Polynesian voyages of exploration and discovery in the Pacific hemisphere, and *elevates* long-standing Native Hawaiian traditional and cultural practices. Hawaii is not an ethnocracy. Hawaii is not a theocracy. Reject this legislation in its entirety in favor of the status quo ante. Also, wake up: mountain zones are not coastal zones. Stop disestablishmentarianist immiserization of Hawaii's people by dismantling their industries. Consider resolving to encourage the Mauna Kea Working Group to do something else, hereafter.

HB-2024

Submitted on: 2/18/2022 3:28:01 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Zachary Lorenzo	Individual	Support	No

Comments:

Aloha members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance,

My name is Kaleikaumaka Lorenzo, a local resident of Hawaii, and I am writing to you in SUPPORT of HB2024. The proper stewardship of Mauna a Wākea has long been debated with numerous Native Hawaiian, environmental and community groups raising concerns over the decades.

Formal reviews have validated the community’s concerns. The Hawai‘i State Auditor's Office released reports in 1998, 2005, 2014, and 2017 that were critical of the University of Hawai‘i’s (UH) stewardship of Mauna a Wākea. Most recently, the Department of Land and Natural Resources’ “Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan” found that the while UH’s management of Mauna a Wakea had improved, it failed to timely approve administrative rules; failed to consult with the Native Hawaiian community on cultural resources issues; and failed to engage with the community, particularly the Native Hawaiian community, on education and outreach efforts.

HR33, HD1, aimed to address these longstanding issues by establishing a Mauna Kea Working Group (Working Group) to provide recommendations to develop a new governance and management structure for Mauna a Wākea.

As supporters of a healthy and protected Mauna a Wākea, we strongly urge you to pass HB2024 with the following amendments:

Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report - Ho‘okikī Kānāwai, Kua‘ā Kānāwai, Kai‘okia Kānāwai, Kīho‘iho‘i Kānāwai;

Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group’s Report; and

Add language that would require the University of Hawai‘i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

In conclusion, the leadership of the House of Representatives declared a bold commitment to take steps towards economic, cultural, and environmental justice. Your support of HB2024 will make good on your commitments to your constituents, and Hawai‘i’s precious natural and cultural resources.

Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group:

He lā hou kēia ma Mauna a Wākea.

A new day has indeed arrived on Mauna a Wākea.

Me ke aloha no Mauna a Wākea,

Kaleikaumaka Lorenzo

Ke aloha o ka 'āina iā kākou pākahi a pau! Aloha members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance,

My name is Dane Kekaimalu Dudoit, a local resident of Hawaii, and I am writing to you in SUPPORT of HB2024. The proper stewardship of Mauna a Wākea has long been debated with numerous Native Hawaiian, environmental, and community groups raising concerns over the decades.

Formal reviews have validated the community's concerns. The Hawai'i State Auditor's Office released reports in 1998, 2005, 2014, and 2017 that were critical of the University of Hawai'i's (UH) stewardship of Mauna a Wākea. Most recently, the Department of Land and Natural Resources' "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan" found that the while UH's management of Mauna a Wakea had improved, it failed to timely approve administrative rules; failed to consult with the Native Hawaiian community on cultural resources issues; and failed to engage with the community, particularly the Native Hawaiian community, on education and outreach efforts.

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Recognize Mauna a Wākea and 'āina (land, water, winds, rains, etc.) as kin;

Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group's Report; and

Add language that would require the University of Hawai'i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

In conclusion, the leadership of the House of Representatives declared a bold commitment to take steps towards economic, cultural, and environmental justice. Your

support of HB2024 will make good on your commitments to your constituents, and Hawai'i's precious natural and cultural resources.

Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group:

He lā hou kēia ma Mauna a Wākea.

A new day has indeed arrived on Mauna a Wākea.

na'u nō me ke aloha no Mauna a Wākea,
na Dane Kekaimalu Dudoit

A handwritten signature in black ink, appearing to read "Dane K. Dudoit". The signature is fluid and cursive, with a large, stylized initial "D".A small, faint handwritten signature in black ink, appearing to read "Dane K. Dudoit". It is located at the bottom center of the page.

There are \$ hundreds of millions of dollars/yr. that are being sacrificed from lost revenues from leases on 13 existing telescopes and the \$1.4 (now 2.4, and on 2/5/2022, 2.65) billion-dollar TMT telescope. Also, remember that only 525 acres are utilized atop Mauna Kea on the paramount celestial-viewing-site on Earth, the "*Mauna Kea observatory zone*," for the existing 13 astronomy celestial-viewing-sites and the 14th \$1.4 (now 2.4, and on 2/5/2022, 2.65) billion stalled TMT telescope that is also fully permitted within (w/in) this 525 acres atop Mauna Kea. This 525 acres of the Earth's paramount celestial-viewing-site atop Mauna Kea is referred to as the "*Mauna Kea observatory zone*."

This huge crisis is all on 525 acres of land on the Mauna Kea slope. Hundreds of millions of dollars per year, (\$200 million+/yr.) is funded into a myriad of Hawai'ian entitlements, and, if you add the 14th \$1.4 (now 2.4) billion stalled TMT to the mix, and don't plan on retiring 5 of the 13 existing telescopes, there will be hundreds of millions of dollars per year that Native Hawai'ians could glean from, according to (#5), 8/21/19, p. A10, Star-Advertiser's *Island Voices*: "*Maunakea vital to the science of astronomy*" by its author, "--- the former director of the Institute for Astronomy of the University of Hawaii," who is now, ---"the current director of science of the European Space Agency -- -: *Guenther Hassinger*.

HB-2024

Submitted on: 2/18/2022 3:58:43 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Malia Marquez	Individual	Oppose	No

Comments:

Aloha Kāua,

My name is Malia Marquez and I'm from Maunaloa. I'm opposed to HB2024 for various reasons. The Governor should not be given the right to appoint individuals to this entity nor should a seat be offered to an astronomer. I am greatly opposed to HB 2024.

Mahalo for your time.

Malia Marquez

HB-2024

Submitted on: 2/18/2022 4:10:06 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jillian Paulino	Individual	Support	No

Comments:

Aloha members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance,

My name is Kamakaila Paulino. I am from the ahupua'a of Waikahekahe, in the district of Puna, on Hawaii Island. I am writing to you in SUPPORT of HB2024. The proper stewardship of Mauna a Wākea has long been debated with numerous Native Hawaiian, environmental and community groups raising concerns over the decades.

Formal reviews have validated the community's concerns. The Hawai'i State Auditor's Office released reports in 1998, 2005, 2014, and 2017 that were critical of the University of Hawai'i's (UH) stewardship of Mauna a Wākea. Most recently, the Department of Land and Natural Resources' "Independent Evaluation of the Implementation of the Mauna Kea Comprehensive Management Plan" found that the while UH's management of Mauna a Wakea had improved, it failed to timely approve administrative rules; failed to consult with the Native Hawaiian community on cultural resources issues; and failed to engage with the community, particularly the Native Hawaiian community, on education and outreach efforts.

HR33, HD1, aimed to address these longstanding issues by establishing a Mauna Kea Working Group (Working Group) to provide recommendations to develop a new governance and management structure for Mauna a Wākea.

As supporters of a healthy and protected Mauna a Wākea, we strongly urge you to pass HB2024 with the following amendments:

Re-insert the Kumu Kānāwai, which is Foundational, as described in the Mauna Kea Working Group Report - Ho'okikī Kānāwai, Kua'ā Kānāwai, Kai'okia Kānāwai, Kīho'iho'i Kānāwai;

Utilize the spelling of Mauna a Wākea for all state related references, as stated and affirmed in the Mauna Kea Working Group's Report; and

Add language that would require the University of Hawai'i to cease all actions relating to Mauna a Wākea lease and contract renewals until the new Mauna a Wākea stewardship authority is established and is operational.

In conclusion, the leadership of the House of Representatives declared a bold commitment to take steps towards economic, cultural, and environmental justice. Your support of HB2024 will make good on your commitments to your constituents, and Hawai'i's precious natural and cultural resources.

Let us bring to fruition the words that were offered by the Mauna a Wākea Working Group:

He lā hou kēia ma Mauna a Wākea.

A new day has indeed arrived on Mauna a Wākea.

Me ke aloha no Mauna a Wākea,

Kamakaila Paulino

Shane Palacat-Nelsen

Legislative Testimony in **SUPPORT** of
HB 2024, RELATING TO MAUNA KEA

Saturday, February 19, 2022
WAL/JHA/FIN Committees

Aloha kākou e Chair Tarnas, Water & Land, Chair Nakashima, Judicial & Hawaiian Affairs, and Chair Luke, Finance committees,

Mahalo for the opportunity to provide my testimony in **SUPPORT OF HB 2024**, Relating to Mauna Kea. I am the President of Moku O Keawe Council for the Hawaiian Civic Clubs and the Kahu Kū Mauna Advisory Council Chair that advises the Maunakea Management Board, UH-Hilo Chancellor, and the Center of Maunakea Stewardship regarding the UH leased lands on Maunakea. Recently, I served on the Mauna Kea Working Group (MWG).

The MWG spent countless hours in research and discussion that addressed the current activities on the Mauna. Based on the recommendations from the MWG via its report, this measure establishes a new governing structure that would steward Mauna A Wākea, highlighting the natural and cultural resources as the primary foundation in the stewardship of Mauna A Wākea.

Further, I would like to provide some comments to emphasize the prioritization of the natural resources such as the water sources and aquifers, flora and fauna, commercial, educational and science activities, and to address the erosion due to all environmental and human engagement on the Mauna.

1. In its early stages, the working group unanimously arrived via consensus to adopt the Kumu Kānāwai¹ as it is provided within the report. It is imperative that this language guides the focus and decisions made for Mauna A Wākea.
2. In understanding the need for a smooth transitional phase in establishing a new management structure, I strongly urge that language be added to restrict any new or extension of leases be granted or formulated until the new structure has the ability to establish its management plan and to properly consider the astronomy development framework that already exists in this legislation.

Mauna A Wākea is a Wahi Pana, and this legislation is in timely alignment with the evolution on how the State is able to properly steward valuable resources. **I URGE your SUPPORT FOR HB 2024.**

Mahalo nui

¹ Pages 4,5,7,8,11,12, and 13, HE LĀ HOU KĒIA MA MAUNA A WĀKEA: A NEW DAY ON MAUNA A WĀKEA, MAUNA KEA WORKING GROUP, A Report to the Legislature of the State of Hawai'i.

HB-2024

Submitted on: 2/18/2022 4:48:50 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
cheryl B.	Individual	Oppose	No

Comments:

I OPPOSE this bill. I oppose the premise from which this working group was established which leads to this bill. Here are the specific reasons that I oppose this bill :

1. A Governor-appointed entity, individuals within that entity leaves too much to a Governor's power. A governor is elected every 4 years, this would take away any sense of foundation, consistency which is greatly needed for the Mauna. Building on this politics need to be taken off the Mauna. It is an issue that has affected the protection of the Mauna during UH's lease tenure and will continue to be an issue if the legislature is allowed to continue it's path and if the governor is the person who appoints to the entity. In addition, the boards around the state already are lacking people to fill the vacancies on boards. What are the checks and balances? Is having a few folks not appointed by the Governor enough?

2. Foundational concepts of the Kumu Kānāwai that were referenced throughout the Working Group Report are not included in the HB2024 language. Reading through the report, there was a huge section on Kumu Kānāwai, yet there is nothing in the language of this bill. This shows to me the true path of some of the legislators who are promoting this bill.

3.. Astronomy industry should not be part of the Governing Entity. There is no reason for anyone in astronomy to be on this governing entity in any capacity. It has always been a failure of the state to refuse to allow those who should be in control of taking care of the Mauna to do so. Astronomer interest is not first and foremost the Mauna, it is their business.

4. Putting in this governing entity removes protective measures that are currently in place. For example, historic preservation and conservation use permits.

5. Ultimately. if you want the community to trust you to take care of trust lands then there is so much more that needs to be done. We have seen the complete ignoring of many parts of 13/5 and especially the HAR rules title 13 Chapter 5 criteria for building in a conservation zone. It seems that \$\$ and corporations, foreign governments are always the first priority when it comes to the Mauna and the lands of these islands. Trust needs to be built and this bill is not the answer.

HB-2024

Submitted on: 2/18/2022 5:13:15 PM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Leinani Lozi	Individual	Oppose	No

Comments:

Aloha kākou. As a Native Hawaiian woman, I am writing in opposition to this bill for five reasons. 1. I do not agree with the length of time for the positions of power within the authority. I have seen many organizations fail in their management, education and protection of resources due to mandated leadership changes. True change takes longer than 8 years and varying leadership will have varying ideals and priorities. 2. I am astounded by the lack of free access to the summit for kama'āina residents and especially Native Hawaiians. The summit area is an incredibly sacred and powerful place and denying people access to it or charging money to access it is offensive to those who love and mālama this 'āina. 3. I am frustrated by the lack of mention to protect the many native species of plants and animals that exists in the currently UH managed lands. Protection of endangered species is not a small task in any way and so to not even have one sentence mentioning a plan for how the authority would do so makes me very concerned that the current conservation efforts that have been ongoing for two decades will have been for nought. 4. Input and authority needs to come from Native Hawaiian organizations from all parts of Hawai'i Island, not just the community college and the Edith Kanaka'ole Foundation. They are important organizations but their leadership overlaps and there are more Native Hawaiian organizations and communities who have pilina and kuleana to Mauankea who deserve to be heard and included. 5. I believe Astronomy is an important part of our Hawai'i Island community and deserves to remain on the mountain in perpetuity. Astronomy contributes to the education and availability of careers to our future generations and reconnects us with what it means to be Hawaiian Astronomers / scientists. I hope that the committee will take their time in considering the ramifications of accepting this bill. Mahalo,

Aloha Chairs Tarnas, Nakashima, Luke, Vice Chairs Branco, Matayoshi, Yamashita, and members of the Committees on Water & Land, Judiciary & Hawaiian Affairs, and Finance,

I am writing to testify against HB 2024.

I am an Astronomer Emeritus at the UH Manoa Campus. I worked at the UH from 1980 to 2016 and have therefore seen and participated in the growth of astronomy on Maunakea from the early days. I am a former director of the NASA Infrared Telescope Facility. I was born and raised on Maui, and like many people in the islands I am saddened by the controversy of astronomy development on Maunakea.

I support the efforts of the Mauna Kea Working Group and Speaker Saiki for continuing dialogue on the important issue of managing Maunakea. However, it is my view that adoption of HB 2024 will effectively kill all astronomy activities in the State of Hawaii because of the delays that will be incurred in setting up a new governance structure and it will require significant funding to implement.

Stopping the TMT and even stopping all of astronomy in Hawaii will not resolve the underlying issues raised by the Kia'i movement and it will not yield a better future for the next generation. I believe the proposed Master Plan for Maunakea by the University of Hawaii is an important step toward addressing the many issues that face the University and the community. This plan includes strict limits on astronomy development on Maunakea.

A long-term sustained effort by the University that is supported by the State Legislature is needed to realize the objectives of the Master Plan for Maunakea, to address the concerns of the Kia'i movement, and to heal the divisions in our community.

The UH Board of Regents has looked deeply into this matter and the Center of Maunakea Stewardship has discussed the Master Plan for Maunakea broadly with the community. The State Legislature can provide strong oversight and accountability on the execution of this Master Plan. It will not satisfy everyone but it will over time address the needs of the people of our state.

Thank you for consideration of this statement,

Alan Tokunaga, 217 Prospect St. Apt. D-13, Honolulu, HI 96813

HB-2024

Submitted on: 2/19/2022 4:12:03 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Jocelyn Leialoha M Doane	Individual	Support	No

Comments:

Aloha House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance,

'O Jocelyn Doane ko'u inoa. He Hawai'i au. Ua noho wau ma Maikiki/Manoa. I STRONGLY SUPPORT HB2024 WITH AMENDMENTS, which would overhaul the management structure for Maunakea by placing the well-being of the mauna itself at the center of the stewardship of this sacred, special, significant place.

Since the beginning of Astronomy in Hawai'i our decision-makers/politicians, environmentalist, and Native Hawaiians have raised concerns about increasingly intensive uses and increased development on Maunakea.

The University of Hawai'i and the State have failed their fiduciary duties by mismanaging Maunakea for 50 years, prioritizing astronomy and the establishment of Hawai'i as the premiere location for astronomical research, at the expense of everything else (neglecting the site's natural and cultural resources) – despite decades of community concerns. Its mismanagement is well documented.

Inadequate management persists – many of auditor's concerns have not been addressed, many of the comprehensive management plan management actions have not been or inadequately implemented, the update to both the management plan and master plan have been significantly delayed (by over a decade for one of the plans), and other offensive behavior has continued, despite UH insisting it has improvement management.

HB2024 would vastly improve the state's stewardship of Maunakea by:

- removing UH's management kuleana;
- establishing a new stewardship entity solely focused on the care of the mauna and whose voting members will reflect the Native Hawaiian community and the cultural significance of the mountain;
- establishing culturally based guiding operational values and principles for the new stewardship entity;
- requiring the new stewardship entity to develop a framework to limit astronomy development on the mauna;

- requiring the new entity to follow all conservation laws, historic preservation laws, land use laws, the sunshine law, etc.; and
- Prohibiting the sale or exchange of lands on Maunakea.

I would also recommend the following amendments:

- requiring the entity to follow analogous leasing and disposition laws to chapter 171, which is what was clearly intended by the Maunakea working group, and
- make clear that constitutionally protected Native Hawaiian traditional and customary practitioners ability to exercise their practices are not overly burdened.

HB-2024

Submitted on: 2/19/2022 11:42:25 AM

Testimony for WAL on 2/19/2022 9:00:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Kawena Lei Apao	Individual	Support	No

Comments:

Aloha members of the House Committees on Water & Land; Judiciary & Hawaiian Affairs; and Finance,

My name is Kawena Apao, and I am a Native Hawaiian resident of O‘ahu.

I STRONGLY SUPPORT HB2024, which proposes a comprehensive overhaul of the state’s long-broken management structure for Mauna a Wākea by placing the well-being of the mauna itself at the center of our stewardship of this special place.

The State of Hawai‘i’s nearly 50 years of mismanagement of Mauna a Wākea is well-documented. The State Auditor issued four reports critical of the state’s management of Mauna a Wākea. The 1998 audit report was the most scathing, finding that the University of Hawai‘i’s focus on telescope construction, came at “the expense of neglecting the site’s natural resources.”

HB2024 would vastly improve by the state’s stewardship of Mauna a Wākea by:

- removing UH from the management framework for the mountain;
- establishing a new stewardship entity solely focused on the care of the mauna and whose voting members will reflect the Native Hawaiian community and the needs of the mountain;
- establishing culturally based guiding operational values and principles for the new stewardship entity; and
- requiring the new stewardship entity to develop a framework to limit astronomy development on the mauna.

In closing, I urge the committees to PASS HB2024, and let’s do what’s pono for Mauna a Wākea.

